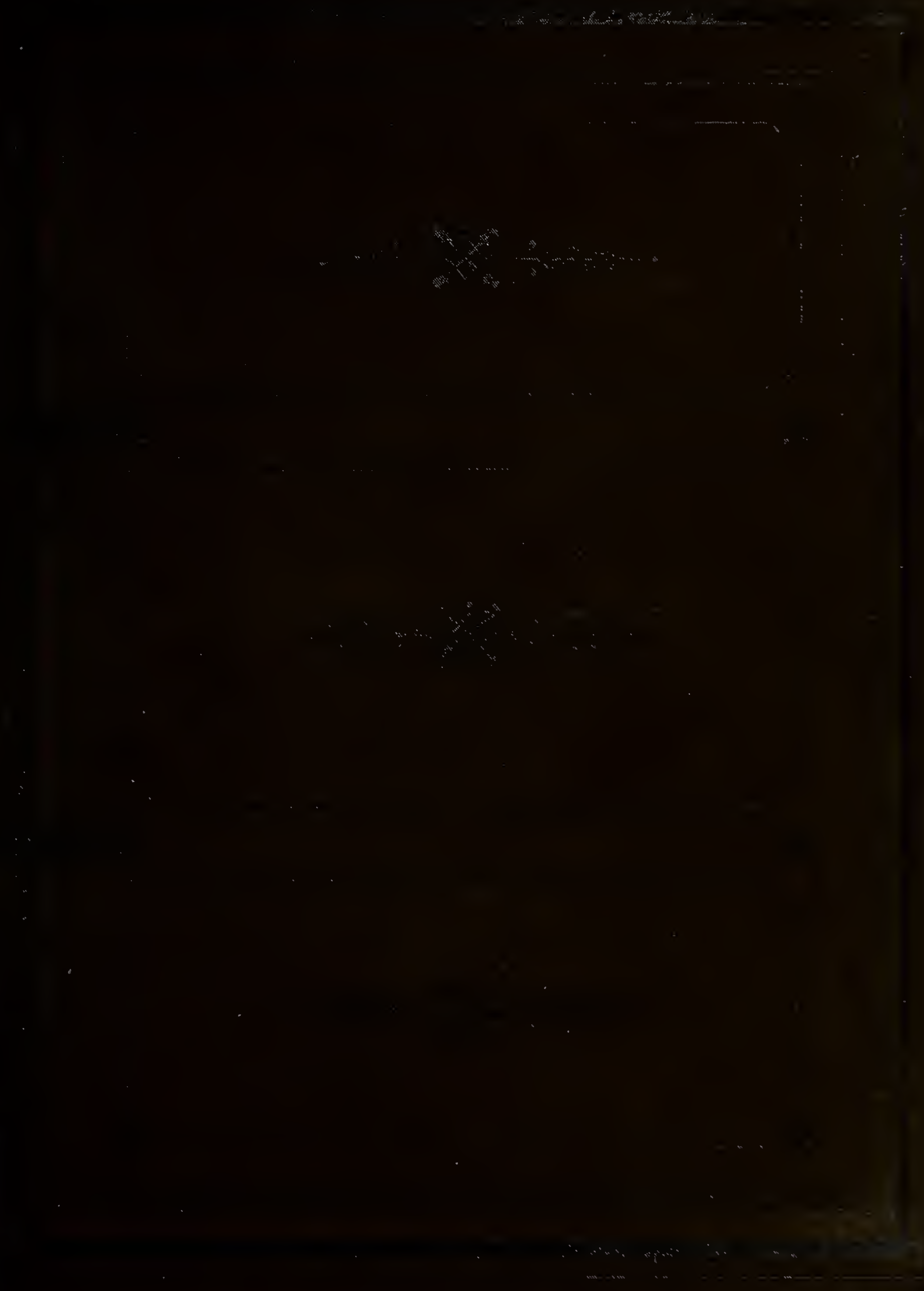

CALEDONIA.

CALEDONIA:

OR,

A HISTORICAL AND TOPOGRAPHICAL

ACCOUNT OF NORTH BRITAIN

FROM THE MOST ANCIENT TO THE PRESENT TIMES,

WITH

A DICTIONARY OF PLACES

CHOROGRAPHICAL AND PHILOLOGICAL.

BY

GEORGE CHALMERS, F.R.S., F.S.A.

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CHAP. IX.

Of the Laws in this Period.

THE laws of every country will be found to be congenial to the nature of the people, because the law in every clime and every period proceeds from the people, and not the people from the law. The genuine history of jurisprudence in North-Britain would clearly illustrate that appropriate observation. The customary law of the Scots may be traced back to the beginning of the sixth century in Argyle; to the end of the eighth age in Galloway; to the middle of the ninth century in the United Kingdom of the Picts and Scots; and to the tenth century in Strathclyde. We have seen a migration of Scots arrive in Argyle from Ireland at the first epoch; we have observed a colony of Scoto-Irish settle in Galloway at the second era; and we have beheld the conquest of the Picts by the Scots, which effected the union of both, at the third epoch; and which ended in the subduction of the Britons of Strathclyde during the subsequent age. The Scots introduced into all those countries their usages, because a people do not easily renounce their laws; and a rude people are tenacious of their customs (*a*). But a rational historian would not attempt to trace by analogy, from the Teutonic forests of Germany to the Celtic mountains of Caledonia, a body of laws that would be so incongruous with the modes of thinking, as well as habits of acting, which were peculiar to each of those distinct races of men, who are known by the distinguishing names of Germans and Celts. The historians and jurists who have treated of the origin and progress of law in North-Britain, did not advert that the Germans were a Teutonic race, and that the Picts and Scots were on the contrary, Celtic tribes, as ten thousand facts attest.

The ancient law of Scotland was undoubtedly indigenous; and its origin may be found by a slight inquiry in the earliest colonization, when North-

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(*a*) See book ii., ch. iii., § 3: "The natives of Scotland in the north part of Britain, being a colony of the Irish, used the like customary laws," says the most learned Usher. See Usher's discourse on the first establishment of English laws in Ireland. Gutche's Collectanea, v. i., p. 42.

Britain was settled by the British tribes, who brought their native customs with them into their new settlements. A just analogy would discover in the unwritten usages of the ancient Britons in the south, the local usages of every district in North-Britain. The British customs, even within the precincts of Wales, continued to be the unrecorded jurisprudence of a secluded people, till the reign of Hywel the good, at the commencement of the tenth century (*b*). We may easily suppose that the British usages, which operated as laws within Cumbria, Strathclyde, and the ancient districts of the Picts, were not collected into a code during much later times. The several descendants of the ancient Britons continued to practise the same customs during many an age after their several governments had fallen. The Justinian of England attempted in 1305, to abolish those British customs, though perhaps without complete success, as his power soon after ceased with his life (*c*).

Meantime the British customs, which had long prevailed within North-Britain, on the northern side of the two Friths, became amalgamated with the Scoto-Irish usages on the Union of the Scots with the Picts. There is reason to believe, indeed, that this natural effect of the union of two congenerous people was promoted by legislative art. It is probable that Kenneth, the son of Alpin, who effected that commixture by some ordinance, also commixed the Scoto-Irish usages with the Picto-British customs : hence arose, perhaps the obvious fiction of the *MacAlpin laws* (*d*). Yet is it more than probable that

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(*b*) Usher's Discourse in Gutche's Collectanea, v. i., p. 43 ; and Clark's Pref. to the *Leges Wallicæ.* Yet that general position must be somewhat limited by the recollection that the laws of Hywel, as well as the Triads, often allude to the preceding code of Dyvnwall.

(*c*) That a kingdom of Britons continued on the Clyde long after the union of the Picts and Scots, is certain ; that the Picts themselves were British tribes is equally certain ; and as late as A.D., 1164, Malcolm IV. addressed his writ, *De decimis solvendis,* to the Normans, the English, the Scots, and the WELSH, living within the diocese of Glasgow ; and K. William afterwards addressed a similar writ, in the same manner, to the same lineages. Chart. of Glasgow, p. 203-5 ; and see before, book ii., ch. ii. Edward the first, by the ordinance which he made in 1305 for the settlement of Scotland, ordained that "the custom of the *Scots* and BRETS shall for the future be prohibited, and be no longer practised." Of this important record, which was published in Ryley's *Placita,* 506, and printed in the Rolls of Parliament, v. i., p. 267, I have obtained a collated copy from the original in the Tower. "The usage of the BRETS, says the late Lord Hailes, I take to be what relates to the judge called *Brehon* in Ireland, and consequently that the thing here abolished was the commutations of punishments, by exacting a pecuniary mulct." Annals, v. i., p. 287. No, it was the *usage* of the BRITONS or *Welsh* who, as we have seen, resided in the diocese of Glasgow, which Edward endeavoured to abolish.

(*d*) See this book, ch. vii., under the reign of Kenneth Mac-Alpin.

one of the sons of Alpin did introduce, by positive law, some body of Scoto-Irish usages (*e*). If it were asked, what were the nature and detail of those usages, the curious inquirer must be referred to the Brehon laws, which we have seen the Irish colonists and their leaders bring with them from Ireland into Argyle (*f*). The law of tanistry, which had long prevailed among the fathers of the colonists in their holy isle, was also, we are told, a fundamental law in Scotland for many ages (*g*). But we learn this truth more satisfactorily from the effects of the principle than from the weight of authority or the expansion of detail. The right of succession to the government, which involved so much the happiness of the governed, was confined to the royal family, but not in any direct series. The royal person who was best qualified by experience and abilities to wield the sceptre succeeded to the throne, whether he were the brother, the son, or the cousin of the last possessor. The only exception to this rule seems to have been when a tanist or heir presumptive was appointed during the life of the reigning prince. The history of the Scottish kings establishes the certainty of the fact (*h*). But such was the bloody consequences, that few of those princes died quietly in their beds. From that fundamental law proceeded also repeated revolutions, constant civil wars, and ever-during savageness. The continuance of all those evils, till the end of the Scottish period in 1097, evinces with strong conviction that the law of Tanistry remained unrepealed, whatever may be conceived by credulity or asserted by ignorance (*i*).

The Irish Cruithne or Picts who resettled Galloway at the end of the eighth century, brought with them similar customs, whereof they were peculiarly tenacious. Long after the practice of *feuds* had made many changes within proper Scotland, the Galloway-men enjoyed their own proper laws (*a*). Edward

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(*e*) The Chron. No. 3 in Innes, when speaking of the reign of Donal Mac-Alpin, says: "In hujus "tempore, jura ac leges regni Edi filij Echach [Aodhfin, the son of Eocha], fecerint Goldeli [Gaoid-"heli, *i.e.* the Gael], cum rege suæ in Fothertabaicht."

(*f*) See book ii., ch. iii.

(*g*) Dr. John Macpherson's Dissertations, p. 181.

(*h*) See book ii., ch. iv.; and book iii., ch. vii.; and the Geneological Table of Kings, with their issues, facing page 416.

(*i*) In the Mac-Alpin laws, in the code of Malcolm II., in the Macbeth laws, in the system of Malcolm-Ceanmore, anachronism and incongruity may be traced in every line. In perusing the pretended laws of Malcolm II., who died in 1033, we naturally suppose that we are reading the *Coustumier de Normandy*. See the interesting work of M. Howard. The laws which are assigned to Malcolm-Ceanmore are equally irreconcileable to the notions and habits of a Celtic people.

(*a*) Stat. Alexander II., ch. ii., 1214, in Skene's Old Laws; Stat. Robert I., ch. 36; and see Robertson's Index to the Records, Postcript, p. lii.

attempted to abolish them (*b*). Robert Bruce, with a more liberal spirit, granted a confirmation of the liberties of Galloway (*c*). Of the nature of those laws and liberties, which remained so long and were so often confirmed, analogy must furnish what history denies (*d*). The people were Irish, their language was Irish, and their juridical customs were also Irish.

If we cast a retrospective glance on South-Britain during those ages, we shall see a Saxon people, Saxon laws, Saxon charters, Saxon coins. On the contrary, if we look into North-Britain in those early times, we shall see a Celtic people, a Celtic church, a Celtic government, and Celtic customs ; but we shall not find any charters (*e*), nor any coins (*f*). During the Saxon period Eng-

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(*b*) By his ordinance in 1305 for settling the government of Scotland.

(*c*) Robertson's Index to the Records, p. 13; Pref., p. lii. David II., the son of Robert Bruce, granted a charter of confirmation to the men of Galloway of their laws and liberties. Ib., 33. The community of Galloway complained to Edward I. in parliament during 1304 that they were extremely grieved by a strange law, which was called "Surdit de Sergaunt," and which law had never, said they, been used in the time of Alexander. Edward referred the complaint to his *Locum-tenens*, that he might inquire what benefit the *Surdit de Sergaunt* was to the king, and what damage to the people. Rolls of Parl., v. i., p. 472. In the *Dictionaire, Roman, Walon, Celtique, et Tudesque*, 1777, *Surdite* is said to signify *enchere*. We may thence infer that the grievous *Surdit* was some new *extortion* under the colour of law. We may see in Skene's Old Laws that most of the remedial statutes in favour of the Gallowaymen were made against *the Sergaunts*. Kelham says *Surdit* means *suppose*. But he adds not where he found *Surdit*, or in what context it could mean *suppose*. There is a grant of Robert Bruce to the canons of Whithorn, freeing them "a *superdicto Serjantium*." MS. Monast. Scotiæ. This gives a more satisfactory exposition of the *Surdit* as some *imposition* or *surcharge*.

(*d*) The same juridical notions prevailed among the Gallowidian Irish as in Ireland and in North-Britain. In confirmation of this truth, we may remember a remarkable transaction in the Scottish history. Alan, the lord of Galloway and the constable of Scotland, died in 1234, leaving three legitimate daughters and a bastard son. The Gallowidians, animated by their ancient law, disregarded the title of the daughters, and preferred the right of the son as incontrovertible ; and they petitioned Alexander II., praying that the son might be appointed their lord, with the accustomed rights. The king, preferring justice to ambition, rejected their petition, saith Lord Hailes. But his lordship did not see this passage in the juridical lights which have been now exhibited to the reader's eye. The Gallowidians broke out into insurrection, with the bastard at their head. Alexander suppressed this rising with great difficulty, and re-established the female heirs of Alan. Annals, v. i., p. 251 ; Chron. Melrose, p. 201 ; M. Paris, p. 294. We thus perceive the ancient law of a people overborne by the strong arm of authority. The municipal law of Scotland may be said to have been successively introduced in a similar manner among her Celtic inhabitants.

(*e*) Whatever Balfour and Skene and other such antiquaries, who lived at the beginning of the seventeenth century might pretend, there have not yet been produced any undoubted charters of the Scottish kings prior to those of Edgar. Even Ruddiman, with all his zeal for the antiqui-land was laid out into tithings, hundreds, and shires; but Scotland has been never divided into tithings, nor hundreds, and was not placed under the regimen of Sheriffs till the commencement of the twelfth century. Those comparative intimations would prove, if they were not the demonstrations of facts, that the people who acted upon such dissimilar principles must necessarily have been of different lineages.

In South-Britain, the people have enjoyed for many centuries, a favourite system of jurisprudence which is known by the name of *the common law*; but in North-Britain, the Scoto-Saxon settlers never could boast of the enjoyment of a *common law.* The reason of this singular circumstance may be assigned in the language of the English jurists, that the municipal laws of Scotland have all arisen *within time of memory*, at the epoch of record, at the commencement of the twelfth century (*g*).

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ties of his country, seems willing to relinquish, as indefensible, the pretended charters of preceding reigns. Introduction to Anderson's Diplom., § x. That excellent scholar did not sufficiently advert that there is a material difference between a *grant* and a *charter.* Malcom-Ceanmore no doubt granted lands; but he did not convey them in writing. The late Lord Kames remarks that there were still some lands in the highlands which were held at the middle of the eighteenth century without charters. This observation applies strongly to the ancient state of Galloway.

(*f*) The Saxons left many coins in England, as we may see in Camden and Speed; and the princes of the East-men in Ireland struck coins which still remain, as we may perceive in Simon and Ledwich; but the Celtic kings of Wales, of Ireland, and of Scotland, left no coins for the inspection of posterity. What coins Macbeth distributed at Rome I pretend not to know.

(*g*) By the parliament of Scotland, indeed, the civil and canon laws have been termed the *common law.* 1493, ch. li.; 1540, ch. lxix., lxxx.; 1551, ch. xxii. But it has been observed that the parliaments of Scotland were never skilful antiquaries. "The ancient customs that have "obtained with us, time out of mind," saith Macdowal (Institutes, vol. i., p. 24), "may well be "termed our *common law,* in the same sense as the English lawyers do theirs." Lord Stair, a greater man and deeper lawyer than Macdowal, had already intimated a similar sentiment: "In "like manner, said he, we are ruled, in the first place, by our ancient and immemorial customs, "which may be called our *common law:* such as our primogeniture and all degrees of succession, "our communion of goods between man and wife, the succession of the nearest agnates, the life-"rent of husbands of the courtesy, which are anterior to any statute:" Institutes, p. 12. About the common law Mackenzie is silent. Institutes, tit. i. Mr. Professor Bayne follows his example. Notes, 1749, p. 2, 3. Erskine refers to the statutes, which speak of the civil law and the canon law as the *common laws* of the realm. Institutes of the law of Scotland, ed. 1757, p. 5. It is easy to see that the immemorial customs, which are mentioned as examples by Lord Stair, began with the introduction of the feudal law in the twelfth century. "One must be ignorant "of the history of our law, says the late Lord Kames, who does not know that the laws of "Scotland and England were originally the same almost in every particular." Stat. Laws of Scotland abridged, 1757, p. 429. This position is undoubtedly true, though not perhaps in the sense in which Lord Kames intended. For ages before the intrusion of the Romans the

None of *the terms* of the law of Scotland which Skene attempted to explain, are indigenous in the Scottish jurisprudence (*h*). They are all derived from two sources; 1st, From the language and customs of the Celtic inhabitants of North-Britain, who predominated till the twelfth century; 2dly, From the English law and the Norman language, which conveys its various details. It will not easily be believed by those who have not attentively examined the *law terms* of the Scottish jurisprudence, how many of them owe their origin to the Celtic language. For example:

(1.) *Bothna, Buthna, Bothena,* appears, says Skene, to be ane park where cattle are inclosed. *Bothena,* in old records, a barony, a lordship, or sheriffwick, say Bailey and Ash. *Bod,* in the British, signifies a stationary place, a station in life, a dwelling (*i*). *Bwth,* in the *British, Bod, Bothog,* in the Cornish, *Both, Bothog,* and *Bothan,* in the Gaelic, mean a cottage, a booth (*k*).

(2.) *Burlaw, Byrlaw:* Laws of Burlaw are made and determined by consent of neighbours, who are elected in the *Byrlaw* courts, saith Skene. *Byr,* in the Welsh, means short, abrupt; *Byraal,* tending to shorten; *Bryllawiawg,* (*Byrlaw*), short-handed (*l*). *Bir,* in the Gaelic, means short (*m*); So *Byrlaw* may mean short law, or speedy justice. *Bur,* in the Gaelic, signifies a clown, or boor (*n*). *Bur,* in some dialects of the Gothic, has much the same signification, and it also signifies a cottage; so *Bur-law* may mean rustic law (*o*).

(3.) *Can, Cain, Canum,* signify the duty, custom, or tribute, which was paid to the superior. In the charters of David I., *Can* is often mentioned

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customs, which had the place of laws, were exactly the same in South and in North-Britain, because the tribes who had inhabited both were the same Celtic people. During the Roman period the same laws continued common to both. The conquests of the Saxons made great changes in South-Britain; but as the Saxons made no conquests on the north of the *two friths,* the immemorial customs in this country continued unchanged. Neither did those conquests make any change in the customs of Wales, of Ireland, of Kintyre, of Galloway, of Cumbria, whatever alteration such conquests may have made in Lothian. It will be seen that when the sons of Malcolm-Ceanmore, the children of a Saxon princess, came in successively by the aid of a Saxon power from the north of England, they brought with them, at the commencement of the twelfth century, the customs and laws of England, as they were then understood and practised. From that epoch the position of Lord Kames *began to be true.*

(*h*) In his tract, *De Verborum Significatione,* which was published in 1597.

(*i*) Davies and Owen's Dict.

(*k*) Id.; Pryce's Archæologia; O'Brien and Shaw's Dict.

(*l*) Owen's Dict.

(*m*) O'Brien and Shaw.

(*u*) Shaw's Dict.

(*o*) The term *Birlaw* is still used in Scotland. When two countrymen are chosen by the parties, or appointed by a judge, to ascertain any damage done, they are called *Birlaw*-men.

according to this sense (*p*). *Cain,* in the Gaelic, means a rent, a tax, a tribute, a fine (*q*). *Cainianog,* from *Cain* in the British, was formerly used substantively for coin of different valuations, but now it is simply a penny (*r*). (4). *Cunveth,* which is not noticed by Skene, was, like the *Cain,* a Gaelic duty that was paid to the superiors, particularly to ecclesiastical superiors (*s*). *Cean-mhath,* which is pronounced *Ceanvath,* signifies, in the Gaelic, the first or chief fruit, or *the first fruits* in the ecclesiastical sense (*t*). *Cain-mhaith,* which is pronounced *Cenvaith,* would signify, in the Gaelic, the duty or tribute paid to the chief (*u*). (5.) *Cathorius,* or Catherius; what it means I cannot well declare, saith Skene. It is equivalent to the value of *nine ky* [kyne]. The word is probably from the Gaelic *Ceathar-each,* signifying four horses, which may have been latinized *Ceatharius.* In the same manner *Ceathra',* in

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(*p*) Earl David granted to the monastery of Selkirk the tenth of his *Can* of animals and of cheeses in Galloway, and this grant was confirmed by him when king. It was confirmed also by Malcolm IV. and by King William. Chart. Kelso, No. 1, 2, 3, and 4; Diplom. Scotiæ, pl. xxiv. The Scottish kings received *Can* from the *ships* which arrived in the different ports of Scotland, and also from the saltworks, which were established on its shores; and some of those payments at several places were granted by Alexander I. and David I. to the religious establishments. Chart. of Scone, No. 1, 3, and 26; Chart. Cambuskenneth, No. 55, 28, 29; Chart. Dunfermline; Chart. Aberdon; Reg. of St. Andrews; Reliquiæ divi Andreæ, p. 165; Chart. Kelso, No. 395; Charter of Holyroodhouse, in Maitland's Edinburgh, p. 145.

(*q*) O'Brien and Shaw's Dictionaries. (*r*) Owen's Dict.

(*s*) Robert, the bishop of St. Andrews, in 1127, granted a charter relieving the monks of Durham from the duties of *Can* and *Cuneveth,* payable from the church of Coldingham and the other churches and chapels belonging to them in his episcopate. Chart. Coldingham, p. 41; Smith's Bede, App., p. 764. In the end of the twelfth century Roger, the bishop of St. Andrews, granted a charter confirming a convention made between him and the monks of Durham, "super *Can* et *Cuneveth,* procurationibus, hospitiis, et institutionibus ecclesiarum." Chart. Coldingham, p. 43. Similar conventions were made by William, the bishop of St. Andrews, in 1204, and by William Fraser, the bishop of St. Andrews, in 1293, with the monks of Durham, about *Can* and *Cuneveth*; and these were confirmed by other charters. Ib. p. 44, 45, 91. The monks of Scone received yearly from each plough of land belonging to the monastery "pro suo *Conveth,* ad festum omnium sanctorum, unam vaccam duos porcos, quatuor *Clanmerios* "farinæ, decem *thravas* avene, decem gallinas, ducenta ova, decem manipulos candelarum, quatuor "manualas savonis, viginti et dimidiam melas casei." These customary payments were confirmed in a charter of David I., and in a bull of Pope Alexander III., who came to the papal chair in 1159. Chart. Scone, No. 14, 16. King William granted a charter confirming to Richard, the bishop of Moray, the rights of *Can* and *Coneveth,* as the bishop's predecessors had enjoyed the same in the time of David I. and Malcolm IV., and as the bishop had received them in the time of King William. Chart. Moray, fol. 17.

(*t*) O'Brien and Shaw, in vo. *Cean* and *Math,* and Owen in vo. *Cyn.*

(*u*) O'Brien and Shaw, in vo. *Cain* and *Maith.*

the Gaelic, means *four-footed beasts,* or any kind of cattle (*x*). (6.) *Caupes,* or *Calpes,* in Galloway and Carrick, whereof mention is made in the acts of parliament, saith Skene, signifies ane gift which ane man gives to his superior or the chief of the clan for protection. *Calpich,* in the Hebrides, is a duty payable by the tenant to the chief (*y*). The *Calpes* of the Scottish law is merely the *Colpa* of the Gaelic, signifying a cow or horse, or *Colpach,* a heifer, a bullock, a colt (*z*). (7.) *Cleremethen, Clarmathan;* the law of *Clarematlian* concerns the warrandice of stolen cattle, saith Skene. *Clairthe,* which is pronounced *Claire,* signifies, in the Gaelic, dealt or divided, and *Mathadh* means a pardon; so *Clair-mathain* may mean mercy or pardon dealt out. *Clair-mathain* would signify, in the Gaelic, the pardon or mercy of the tribe or society (*a*). (8.) *Clepe*-and-*Call,* ane form of claim, petition, or libel, saith Skene. *Clep,* in the Welsh, signifies a *Clap* or *Clack* (*b*). *Clap,* in the Cornish, means prating, and *Clapier,* to speak (*c*). *Clab,* in the Gaelic, means an open mouth (*d*). (9.) *Colpindach,* ane young beast, saith Skene. *Colpa,* in the Gaelic, means a single cow or horse; and *Colpach,* a heifer, a young steer, a colt: hence, *Colpa-dagh* signifies a good heifer or colt (*e*). In the pretended laws of Malcolm II. the *Colpindach* is often repeated as the amount of a forfeiture. (10.) *Cro* is ane satisfaction for the slaughter of any man, saith Skene. *Crau* in the Welsh, and *Crou* in the Cornish, signify *blood (f)*; *Cro* in the Gaelic is death, and *Cru,* blood; *Cro'* in the Gaelic also signifies *cattle,* in which the satisfaction for slaughter was anciently paid (*g*). (11.) *Culrach* is called a furthcomand borgh or cautioner saith Skene. Skinner derives this word from the Scoto-Irish *Culreacht,* the guard of the man (*h*). (12.) *Enach,* ane satisfaction for a fault or crime saith Skene. *Iawn* in the Welsh signifies atonement or satisfaction (*i*). *Eineach* in the Gaelic means bounty, goodness; *Eneaclann* a reparation or amends (*k*). (13.) *Eneya,* ane French word for the first or principal part of the heritage, saith Skene. *Ainé* in the French is the eldest or first-born. *Hên* in the Breton is aged, old (*l*). *Hên* in the Welsh is aged; *Henau* is the superlative (*m*). *Hên* in the Cornish is old (*n*). *Sean* in the Gaelic is old; *Seinne* or *Seine,* elder,

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(*x*) Id.

(*y*) Martin's West. Islands, p. 115.

(*z*) O'Brien and Shaw's Dict.

(*a*) Id.

(*b*) Owen's Dict.

(*c*) Pryce's Arch.; Borlase's Cornwall, p. 421.

(*d*) O'Brien and Shaw's Dict.

(*e*) Id.

(*f*) Davies' and Owen's Dictionaries; Pryce's Archæologia.

(*g*) O'Brien and Shaw's Dict.

(*h*) Id., in vo. *Cul* and *Racht.*

(*i*) Owen's Dict.

(*k*) O'Brien and Shaw's Dict.

(*l*) Pelletier's Dict.

(*m*) Davies' and Owen's Dict.

(*n*) Pryce's Archæologia.

eldest (*o*). (14.) *Galnes*, ane kind of satisfaction for slaughter, says Skene. *Galanas*, in the British, signifies murder, a satisfaction for murder; so *Galanas*, in the Welsh laws, is a satisfaction for murder (*p*). *Gail*, in the Gaelic, signifies slaughter; *Gailchin*, a fine for manslaughter (*q*). (15.) *Gangiatores* signifies them who should mark the claith, bread, or barrels before they be sauld, saith Skene. *Gangiad*, in the Gaelic, is deceit (*r*); *Gangiator*, one who prevents deceit. *Gangiatores* is the plural. (16.) *Girthol*, *Girth*, a sanctuary, saith Skene. In the Welsh, *Gurthol* means a posterior part, the rearward (*s*). The root of the word is *Garth*, which signifies an inclosure both in the Celtic and Teutonic languages. (17.) *Kelchyn* is ane penaltie enjoined to ane man who confesses his fault, saith Skene. In the Welsh *Celchyn* signifies one who conceals himself. In the Welsh laws, *Cylch* was a tax, or service to the officers of the princes; as *Cylch Stalwyn*, the tax to the master of the horse for the use of the stallion (*t*). In the Gaelic, however, *Gailchin* signifies a fine for manslaughter (*u*). *Machamium*, from the old French word *Mehaigne*, which we call Manzie, hurt, mutilation, saith Skene. This is the *Maihem* or *Maime* of the English law. In the Gaelic *Maidhin* is a skirmish; *Maidhim*, which is pronounced *Mayim*, means a breach; and *Maidhm*, which is pronounced *Maiym*, signifies *to tear* (*x*). (19.) *Marus*, *Maer*, an officer, or executor of summons, saith Skene. Bailey and Ash derive the term *Mayor* from the Latin *Major*. In the Welsh, the Cornish, and the Armoric, *Mawr* means great; and *Maer* signifies one that is stationed, that looks after or guards another; a provost, a bailiff (*y*). In the Gaelic, *Maor* signifies a steward, an officer, a sergeant. Among the Scots, *Maor* was anciently the same with *Baron*; and *Maor-mor* meant a *great baron*, a lord (*z*). (20.) *Merchet* of women was a duty paid to the superior by the tenants, or vileyns, on the marriage of their daughters. This was an usage or customary payment of the Britons, in North as well as in South-Britain; and it is remarkable that in the country of the Strathclyde Britons, as well as in proper Scotland, the appropriate land of the Picts, where the British people remained long unmixed,

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(*o*) O'Brien and Shaw's Dict. (*p*) Davies' and Owen's Dict. (*q*) Shaw's Dict.

(*r*) O'Brien and Shaw's Dict. (*s*) Owen's Dict.

(*t*) Celtic Remains MS.; Owen's Dict.

(*u*) Shaw's Dict. The word is compounded of *Gail*, slaughter, and *Cain*, a fine. In the Gaelic, *C*, which has the power of the English *K*, is frequently put for *G*.

(*x*) O'Brien and Shaw's Dict.

(*y*) Davies', Richard's, and Owen's Dict.; Borlase's Cornwall, p. 444.

(*z*) O'Brien and Shaw's Dict.

this singular usage may be traced down till recent ages (*z*). As the custom was British, so the term is derived from the British speech, in which *Merched* signifies *women, daughters*; being the plural of *Merch* (*a*); and *Merched* was latinized *Mercheta*. The same law, distinguished by the same term, also existed among the ancient Britons in Wales (*b*); and similar usages, under the same name, prevailed in other parts of South-Britain (*c*). Of the *Merchet* of women, there is a whole chapter in the *Regiam Majestatem*, which seems to

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(*z*) Osbert, the abbot of Kelso from 1180 to 1203, granted to Constantin, presbyter of Lesmahagow, the township of Dowan in Strathclyde, and among other pertinents "*Merchetas de* "*filiabus hominum suorum* habebit, et de *filiabus suis dabit nobis merchetas*." Chart. Kelso, No. 103. The same abbot confirmed to David, the dean of Stobo, the lands of Curroc in Strathclyde, which his father had held, "Cum molendino, et blodwittis, et Birthinsak, et *Merchetis hominum suorum*." Ib., No. iii. Henry, the abbot of Kelso from 1208 to 1218, granted to Gillemor a part of the lands of Fincurroc in Strathclyde, for the yearly payment of twenty shillings, "habebit autem "*Merchetas de filiabus hominum suorum*, curiam suam." Ib., No. 107. In 1450 James II. granted a charter to the bishop of Glasgow, erecting the barony of Glasgow, and other lands of that bishopric, into a free regality; and among other privileges the king confirmed to the bishop the "*Mercheti mulierum*." Chart. Glasgow, p. 498. This was confirmed in the same words by a charter of James III. in 1476. Ib., 486. This British custom was equally common throughout the proper country of the Picts, from the Forth to the Moray frith, where it continued till recent times. In 1403 Archibald, the earl of Douglas, confirmed to John, the laird of Edmonston, the lands of Tulyalon in Perthshire, "Cum curiis et curiarum exitibus, cum hereyeldis, *Merchetis*." Chart. in my Collection. The same earl had previously granted to the same John a lease for nineteen years of those lands, with the same pertinents, including the *Merchetis* of the women, in consideration of 240 marks of Scots money which had been given him in his great necessity. Id. In 1454 George, the earl of Angus, granted a confirmation of the lands of Invernethy in Strathearn, with the pertinents, among which are the *Merchetis* of the women. Chart. in my Collection. In 1462 Thomas Rogerson of Drumdewan, in consideration of £86 : 13 : 4 Scots money paid him in his great necessity, made over to John Stewart, the laird of Lorn, the lands of Strathir, with the mill and all pertinents, among which are the *Merchetis* of the women. Cop. Chart. in my Collection. In 1452 James II. granted a charter to the bishop of St. Andrews, confirming the lands and property of that bishopric; and among other pertinents, he confirmed to the bishop and his successors the *Merchetis mulierum*. This was also confirmed in the same terms by a charter of James III., in 1480, and by a charter of Queen Mary, in 1553. Reliquiæ Divi Andrea, p. 99-102. In 1610 Robert Douglas, the laird of Glenbervie, granted to Robert Douglas, his second son, several lands in the northern part of Kincardine-shire, with various pertinents, among which are "Curiis et earum exitibus, Hereyeldis, "Bludwitis, et *mulierum Merchetis*." Chart. in my Collection. We thus see that this ancient usage of the Pictish-Britons subsisted, in their proper country, till after the Union of the crowns, in the person of James VI.

(*a*) Davies' and Owen's Dict.

(*b*) Laws of Howel Dha, l. i., ch. xiv. and xxvii. "Efe a gaiff obreu *Merched* y maer biswail:" Maritagium filiarum villici dominici regii solvetur.

(*c*) Spelman's Gloss.; Cowel and Jacob's Law Dict. in vo.

give a very mistaken exposition of the laws of Scotland on this head (*d*). Upon the ridiculous fable of Boece, and the absurd explanation of Skene respecting the *Mercheta mulierum*, much has been written, often ludicrously, and sometimes gravely (*e*). (21.) *Ochiern* is ane name of dignity and of an freeholder, saith Skene. In the Gaelic, *Oigthiarna* is an heir apparent to a lordship (*f*). (22.) *Oker*, usury, *Okerer*, an usurer. Such as buy victual and hold it till a dearth, shall be punished as *Okkirars* and usurers (*g*). Such as shall take more than ten pounds for the yearly interest of an hundred pounds, shall be halden and punished as *Ockerers* and usurers (*h*). In the Welsh, *Ocyr*, and *Ocraeth*, signify usury; and *Ocrwr*, an usurer (*i*). In the Gaelic, *Ocar* is interest, usury (*k*). (23.) *Toscheoderach*, an officer, or jurisdiction not unlike to an baillierie, specially in the isles and highlands. Some understand it to be an searcher and taker of thieves and limmers. In the civil law they are called *Latrunculatores* (*l*). In the Gaelic *Toiseach* signifies a leader or chief; and *Taoiseach*, a commander or officer. *Uachdar* means upper, and *Uachdarach* uppermost, highest (*m*), so *Toischuachdarach* means the highest officer; and this officer existed also among the Gaelic people of Galloway (*n*).

The modern, or municipal law of Scotland, then, is not original but derivative; and we have thus seen its fountain heads, not in the forests of Germany, nor in the vineyards of Normandy, but in the language and customs of her own Celtic inhabitants; and still more in the usages and speech of the

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(*d*) B. iv., ch. xxxi.

(*e*) Boece, l. iii., p. 35, and l. xii., p. 260; Skene de Verb. Significatione; Macpherson's Crit. Dissert., p. 192, 198; Spelman and Du Cange's Glossaries; Cowel and Jacob's Law Dict. Craig adopts the interpretation of Skene, but derives the custom from France, with the feudal law. De Feudis, b. ii., ch. iii., § xxxi. The late Lord Hailes thought it worth his while to write an elaborate dissertation on this juridical subject, without being able, however, to elucidate the true origin of the custom. Annals, v. i., App. No. 1. The learned Whitaker seems to have been the first who referred the term *Mercheta* to its real source.

(*f*) O'Brien and Shaw's Dict. The term is composed of *Oig*, young, youth; and *Tiarna*, a lord, a prince, a ruler.

(*g*) James II., Parl. 6, ch. xxiii.

(*h*) Mackenzie's Crim. Law, p. 236.

(*i*) Davies', Richards', and Owen's Dict.

(*k*) Shaw's Dict. *Ocer*, usura; Leibnitz's Celtica, 136. The *C* of the Welsh and Gaelic is pronounced like *K*. And see Verstegan's Antiquities, p. 229.

(*l*) Skene de Verb. Significat. On the 9th of March, 1554, Neil Mac-Neil sold to James Mac-O'Neil the lands of Gigha, with the *Toschodairach* of Kintyre.

(*m*) O'Brien and Shaw's Dict.

(*n*) Robert III. confirmed a charter of John Lachlanson, the laird of Durydarcch, granting to Duncan Dalrumpil *the office of Tosheadaroch*, in Nithsdale. Robertson's Index, p. 146.

Anglo-Norman barons who came into North-Britain, successively in the twelfth and thirteen centuries.

The true sources of the law during the *Scottish period*, however, must be constantly sought for in the genuine history of the several people, whether Scots, Gallowaymen, or Britons (*v*). That period began with the Union of the Picts and Scots. This union was strengthened by the annexation of Strathclyde, Galloway, and Lothian; yet there still remained in the nature of the Scottish policy territorial divisions, which produced for ages weakness and distraction, notwithstanding those annexations and that union. The settlements of the Scoto-Irish were everywhere divided, either by mountains, or rivers, or valleys, into *countries*, but not into *shires*; because the Saxon policy of the shire was unknown to the Celtic people, who, both in Ireland and in Scotland, concurred in their hatred of Sheriffs. With these intimations the fact remarkably corresponds. Exclusive of Lothian, Galloway, and Strathclyde, proper Scotland was subdivided throughout the Scottish period into ten districts, which, as each of them possessed separate and independent rights, scarcely admitted of sovereign authority in the united whole.

I. FIFE comprehended the country between the Forth and Tay, below the Ochil hills. Of this ample district, Macduff was the noted Maormor, in the reigns of Duncan, Macbeth, and of Malcolm III. II. STRATHEARN, Menteith, and Braidalban, included the country between the Forth and the Ochil-hills on the south, and the Tay on the north. III. ATHOL and Stormont, comprehending the central highlands, lay between the Tay and Badenoch. During the eighth century, a branch of the royal family of the Picts ruled within this extensive district. Talorgan, the son of Drostan, and the regulus of Athol, was made prisoner by the mighty Ungus in 733 A.D. Talorgan effected his escape into Ireland; but returning thence to assert his rights, he was, in 738, drowned by the inexorable Ungus (*w*). In 934, Dubhdou, the Maormor of Athol, was slain in the battle of Drumcrub, between Duff, the reigning king, and Culen his successor (*x*). IV. ANGUS comprehended the country from the Tay and the Isla on the south, to the Northern Esk upon the north. Dubican, the son of Indrechtaig, and Maormor of Angus, died in 939 (*y*). Maolbride, the son of Dubican, died during the reign of Culen, which extended from 965 to 970 (*z*). Cunechat, a Maormor of this extensive district, was the father of the noted Finella, whose wrath deprived Kenneth III. of life

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(*v*) See book ii., ch. iii.

(*w*) Ulster Annals.

(*x*) Id. Chronicle No. 3 in Innes.

(*y*) Chron. No. 3 in Innes.

(*z*) Id.

in 994 (*a*). V. MOERN or Mearns comprehended the district which lay between the rivers North-Esk and the Dee. Finella, who is still remembered in the traditions of the country for her wrongs and her resentment, was the impassioned wife of the Maormor of the Mearns. In 1094, Maolpeder, the Maormor of the same district, assassinated the son of Malcolm-Ceanmore, Duncan, the Scottish king. VI. The extensive range of country lying between the Dee and Spey, comprehending Aberdeen and Banff. The Maormor of this district, Grig, who is famed in Scottish history as Gregory the great, slew Aodh, his sovereign, in battle, during the year 882, and reigned in his place till he was dethroned in 893 A.D. VII. The ample region, comprehending the country from the river Spey to the Farar or Beauly, and extending westward to the limits of northern Argyle, formed the district of MORAY. The Maormors of Moray were persons of great consequence in the earliest times. The first of those princes who is recorded by the chronicles was Cellach, the antagonist of Malcolm I., by whom he was slain (*b*). The reign of Malcolm, who died in 953 A.D., may be deemed the period when the Moray-men and their Maormors appeared often in the bloody scenes of the Scottish history. When the eleventh century began, Maolbrigid was the reigning prince over those powerful people (*c*). As Maormor he was succeeded by his son, Gilcomgain, who married Gruoch, the daughter of Bodhe and the grand-daughter of Kenneth IV., and by her he left a son, Lulach, who, with his father's misfortunes, possessed the throne for a while; and left issue, who were supported by the Moray-men when the children of the Maormor claimed their rights (*d*). VIII. ARGYLE, as it formed the ancient kingdom of the Scots, extended along the continent of Scotland from the Clyde far into Ross, and comprehended the numerous isles in the surrounding sea. During the Scottish period we see nothing of the Maormors of Argyle on the gory stage of the Scottish history till the rise and adventures of the northern vikingr. IX. Ross and Cromarty formed the great district of Ross. The potent Maormors of this peninsular range appeared early in bloody conflicts with those rapacious sea-kings. In those honourable scenes appeared Finlegh at the end of the tenth century (*e*). As Maormor of Ross he was succeeded by his son, Macbeth, the tyrant of

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(*a*) Chron. in the Register of St. Andrews.

(*b*) Chron. No. 3 in Innes.

(*c*) Torfæus's Orcades, p. 25, etc.

(*d*) Ulster Annals; Chron. No. 4 in Innes. Lord Hailes remarks, mistakingly, that no party espoused the cause of this pageant monarch, Lulach. An. v. i., p. 3.

(*e*) Torfæus's Orcades, p. 27.

Shakspeare *(f)*. As Maormor of Ross, Macbeth overpowered the king and seized the sceptre. X. SUTHERLAND and CAITHNESS formed a district which, at the end of the tenth century, was ruled by Sigurd, the Norwegian Earl of Orkney. This powerful prince was succeeded by his son, Thorfin, the grandson of Malcolm II., who claimed authority over the Gaelic people of the interior country, though they owed submission to the Scottish King.

Such were the districts of Scotland throughout the Scottish period. These divisions agree nearly with those of the Document, "De Situ Albaniæ," which was communicated in the twelfth century by Andrew, the bishop of Caithness, to Giraldus Cambrensis (*g*). He is not accurate, however, in all his divisions; he couples Angus and Mearns together, though they were undoubtedly distinct as we have seen, and were ruled by several Maormors. He conjoins Moray with Ross though they were also separate, and were governed by various Maormors. As the districts which were inhabited by the British tribes when Agricola invaded North-Britain were connected by very slight ties, so those several districts during the Scottish period were conjoined by a very brittle chain. *The whole* scarcely enjoyed authority over every part. The clans of the distinct districts possessed rights which the whole kingdom could hardly control; they were governed by their own customs, and they were ruled by their own chieftains or Maormors, who could not be appointed nor displaced by the king. We shall see in our progress that the *Maormors* of the present period, in the next, assumed the name and character of *Earls* by their own authority rather than the king's creation. The notion of a body politic that had an acknowledged authority to make laws which every individual and every district were bound to obey was little recognised among the Gaelic people, and scarcely known during the present period. But in those enumerations of districts and of Maormors we see nothing of the regimen of sheriffdoms with their several sheriffs, who were peculiarly reprobated by the Irish polity and habits.

In the same manner the Kings, the Maormors, the Chiefs, were so independant of each other in their respective stations, that the power of the superior over the inferior was but little felt though it was acknowledged; and was often resisted because it could not easily be enforced. The prerogative of the kings and the privileges of the princes, and chiefs, and people, continued the same during the Scottish period as they had been throughout the Pictish among the Scoto-Irish (*h*). The same law which directed the succession of the kings, fatal as it was, equally operated in the succession of every chieftain with similar

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(*f*) All the ancient chronicles concur in assigning Finlegh as the father of Macbeth.

(*g*) See it in Innes's Appendix No. 1.

(*h*) See book ii., ch. iii.

effects (*i*). In all those districts and subdivisions, the chief gave protection, and in return the inferiors yielded subordination and contributions during peace, and in war, support, and obedience ; yet, during uncivilized times, the possessions of all were precarious ; and cultivation, owing to this circumstance, was not carried much beyond the wants of nature, and the dues of chieftainry. The custom of Tanistry was the common law of North-Britain throughout the Scottish period, as it had been originally in Ireland, till the invasion of Henry II. (*k*). The Brehons equally continued during the Scottish period as they had done during the Pictish in Argyle, to be judges throughout every district of proper Scotland (*l*). The common customs of the country, and the usual manners of the times, were the accustomed rules of their judicial proceedings (*m*). During the Scottish period there were customary payments of Celtic origin, which were long known by the Celtic names of *Cain* and *Cunevethe* ; the nature whereof, as it has been already explained, need not be here repeated, though the *Cain* and *Cunevethe*, formed in that age the principal revenue. The mischiefs which resulted from such maxims, continued to be deplored till the feelings of recent times abolished them by legislative regulations (*n*).

The foregoing intimations clearly evince that, during the reign of Malcolm-Ceanmore, the laws were Celtic, the government was Celtic, as we have already seen, the church was Celtic, and the people were Celtic throughout the same period. If Malcolm-Ceanmore, a Celtic prince, who did not arrogate the character of lawgiver, had been disposed to effect a considerable change in this Celtic system, he would have found his inclination limited by his impotence. The Scottish kings during those times seem not to have possessed legislative

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(*i*) Dr. John Macpherson's Dissertations, p. 183.

(*k*) Ib., 184. See book ii., ch. iii. ; and see the ancient and modern customs of the western isles in Martin, p. 101-24.

(*l*) See book ii., ch. iii.

(*m*) See Martin's Western Isles, p. 124, "Of the Courts of Judicatory."

(*n*) The well-known Lord Lovat, in a memorial which he presented to the Duke of Newcastle, the Secretary of State, in 1727, says : "This extraordinary state of the Highlands has at all times pro-"duced many mutual quarrels among the chiefs, which formerly amounted to almost a continual scene "of civil war, and to this day there remains both personal and hereditary feuds among them, which "have a very great influence over all their actions. The law has never had its due course in many parts "of the Highlands either in civil or criminal matters." MS. Mem. in the Paper Office. The Lords of Session reported, by direction, to the House of Lords on the 9th of January, 1746-7, "That the *High-"lands* of *Scotland* had been at all times, and at this day are, in a state so unsettled that offenders are "not from thence amenable to justice, nor can process of law have free course through them." This was followed by the statute of the 20 Geo. II. *for abolishing heritable jurisdictions*, and by other similar acts, for *improving the union.*

power. Whenever they acted as legislators, they appear to have had some coadjutors, either some Maormors or some bishops (*o*). His children, and grandchildren, when they attempted to introduce new maxims of government, were in Galloway and in Moray, opposed by frequent insurrections (*p*). To convert a Celtic people from their ancient habits and usages, how many ages and revolutions, and laws, have been requisite in North-Britain and in Ireland !

It is incredible then, that Malcolm Ceanmore introduced among the Celtic people, the feudal system, which was so inconsistent with their principles, and so irreconcilable to their habits. It is in vain to quote spurious laws, fictitious charters, and ignorant historians, for proving in opposition to that incredibility, that the practice of feuds, the titles of earls, barons, and of thanes, had been introduced into North-Britain, even before the reign of Malcolm-Ceanmore (*a*). A system must be, indeed, weak, which requires the support of fiction ! We have seen that customs of a very different nature prevailed during the reign of Malcolm-Ceanmore. We have observed that many of the very terms of the modern law of North-Britain must, necessarily, have been borrowed from the Celtic language and usages ; while the very titles of honour, which actually existed during the reigns of Malcolm-Ceanmore's successors, derived their names and their energies from similar sources. The thanes and thanedoms, which are supposed by the Scottish historians and lawyers, to have existed in North-Britain during early times, derived their names and policy from the Saxon language and jurisprudence, and must consequently have been introduced during the Scoto-Saxon period, when the Anglo-Saxon speech, and the Anglo-Norman law became predominant (*b*). Sheriffs and Sheriffdoms,

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(*o*) See the ancient chronicles in Innes's Appendix.

(*p*) Lord Hailes' An., v. i., p. 67, 106-7 ; Shaw's Moray, p. 212-14 ; Chron. St. Crucis, apud Ang. Sacra, v. i., p. 160-1.

(*a*) Who would quote the laws of Malcolm II. after they had been exploded by such writers as Lord Kames and Lord Hailes, and indeed had exploded themselves by their own absurdities ! Who would cite a monkish collection for a genuine charter ! In opposition to that collection, and to Sir James Dalrymple, Lord Hailes has shown that the *Excerpt* from the *Register of the Priory of St. Andrews,* which speaks of Ethelrede, the son of Malcolm-Ceanmore, as "*Comes de Fife,*" is only a monkish recital that was composed in some subsequent age ! Annals, v. i., p. 42. Who would quote such historians as Fordun and Boece, and Major and Buchanan, for points of law which are supposed to have arisen three or four centuries before they were born !

(*b*) When such fabulous writers as Boece and Buchanan speak of *Thanes* as existing in CELTIC Scotland during the eleventh and tenth centuries, who would believe them ? We may learn indeed from Somner and Lye the origin of the word *Thane* or *Thegn,* and the nature of the thing, which was originally a *land-steward* ; and both were very familiar in England during the Saxon period of her are said to be as ancient in North-Britain as earls, earldoms, and as records (*c*).

Whatever persons were introduced, or changes were adopted by Malcolm-Ceanmore or his Saxon consort, were swept away by a single blast of national indignation, when both ceased to reign (*d*). The modern and municipal law of Scotland must be sought for in some more congenial period, when prejudice was less prevalent and power was more favourable. But a revolution is at hand which will produce consequences, salutary though silent. The ancient fabrics of a Celtic church, and of a Celtic government, will be undermined if not thrown down. We shall behold new authorities assumed, new maxims propagated, and new rights distributed. We shall see improvements follow in succession, till the sun of freedom shall dispense kindlier influences to a happier people, after convulsions shall have ended in union.

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history. Whitaker's Hist. Manchester, vol. ii., p. 157-69-72-74-75, 182-7-9. The *word* and the *office* both came into use in Scotland while they were falling into desuetude in England; because the Scoto-Saxon period of the Scottish history began after the Saxon period of the English annals had ended. Cowel, in vo. *Thane.* For a more full account of *Thane* and *Abthane* see the subsequent book, chap. IV.

(*c*) Wallace's Peerages, p. 112. I agree to that proposition, because it is apparent to me that neither sheriffs, nor earls, nor records existed in Scotland before the demise of Malcolm-Ceanmore. I put aside the Scottish writers, who speak upon these points, as unworthy of credit, because they assert without authority what is highly improbable. But was there not a charter of Malcolm-Ceanmore to the monks of Dunfermline, published by Dugdale in the Monasticon, from the communication of Sir James Balfour, which is tested by three earls. Yes. Yet it is a palpable forgery which, by the magic wand of Sir James, was transformed into a genuine charter. See Sir J. Dalrymple's Hist. Coll., p. 228. Torfæus, the Danish historian, is mentioned as having often spoken of earls in Scotland during much earlier times. Frag. of Scot. Hist., p. 37. What sort of logic is this? Torfæus died in 1720, at the age of 81; and what could he know of the affairs of Scotland a thousand years before he was born? The Danes have not any documents with regard to their own annals at a much more recent period. Pontoppiddan addressed, in 1740, to the prince of Denmark, "Gesta et Vestigia Danorum extra Daniam." In treating of the *Gesta Danorum in Scotia* he is obliged, for want of documents, to quote Buchanan and Boece, and Saxo-Gramaticus, who is equally fabulous, and De Roches, who is still more modern and ignorant than Torfæus, who, as he is defective in chronology and in judgment, is continually introducing the manners of his own times. Pontoppiddan misinformed and deluded his prince upon a thousand points of history. Langebek, when he published the *Scriptores Danicæ,* was somewhat more happy, though he too was obliged to use the same Scottish authorities, and was deluded by them.

(*d*) Sax. Chron., p. 199, 200.

CHAP. X.

Of the Manners, Customs, and Antiquities during this Period.

IT is not more congruous to trace the manners of the Picts and Scots by analogy from the Goths, than it is to deduce the Celtic laws of North-Britain by direct transmission from the Gothic people of Germany. As those two races of men were perfectly distinct, their manners and customs must have necessarily been dissimilar; allowing only for those similarities which the same state of rudeness or civility will ever produce; and this observation is alone sufficient to show how inaccurate Tacitus was, when he conjectured that the Caledonians and Germans must have been congenerous people, because they were similar in the largeness of their joints, and in the likeness of their hair; and how incautious it is in modern writers to copy the philosophical inaccuracies of the Roman annalist.

During the many ages which elapsed before Agricola invaded Caledonia, and Tacitus recounted his campaigns, the manners and customs of the British tribes in South and North Britain were the same (*a*). Their marriages, which were not free from reproach, according to the account of J. Cæsar, were extremely analagous. From this source proceeded, however, the custom of *fostering* and *gossipred* among the Irish and Scoto-Irish, and the practice of clanship which was extremely like in all the British kingdoms, and which everywhere produced the usual evils of anarchy (*b*). The original dress of the

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(*a*) Whitaker's Manchester, book i., ch. x. See before book i., ch. i., ii.

(*b*) Harris's Ware, p. 72. See before book ii., ch. iii. Among the Gaelic people of Galloway and Carrick we may see this custom recognized by the king's authority, during the 13th and 14th centuries. In 1241 Alexander II. confirmed a charter of Niel, the earl of Carrick, to Roland de Carrick and his heirs, constituting him the chief of his tribe or clan (progeniæ suæ), with all the privileges pertaining to the *Kinkynel* (chief of the race), with the office of bailie of Carrick, and the right of leading the men of that country under the earl. This was also confirmed by Robert II. Robertson's Ind., p. 134-5. James Kennedy, who married Mary Stewart, a daughter of Robert III., obtained, with several lands in Ayrshire, a charter constituting him and his

Britons seem to have continued in Scotland even till recent times, because it was congenial to the people and suitable to their several climes (*c*). Their mode of sepulture appears to have been nearly the same amid the alterations which that mournful ceremony underwent during the changes of customs and the reforms of religion. The burning of the dead and the practice of urn burial, seem indeed to have been changed by the Christians to the custom of interment, yet the Gaelic people continued to rear the *cairn* over the respected graves of the warriors as the most lasting memorial of their worthy deeds; and the Gaelic christians even continued, long after the great epoch of their faith, to bury their dead in stone chests, which were deposited in the holy ground of their church-yards (*d*). The rude knowledge and peculiar practice of medicine, which were once similar among all the British clans, seem to have descended to the Scoto-Irish of late times (*e*). The reverence of the British nations for the finny tribes, because they paid adoration to the waters, was a singular custom,

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heirs male the captain of his clan. Ib., p. 149. David II. granted a charter concerning the privileges of the clan of Muntercasduff, constituting John Mac-Kennedy their captain. Ib., p. 57. The same king granted a charter concerning the privileges of the clan of Clenconan in Galloway, appointing their captain. Id.; and he also granted a charter confirming the privileges of the clan of Kenelman in Galloway. Id. The custom of clanship, with the right of command as chief of each clan, subsisted among the Gaelic people in the Highlands of Scotland till the middle of the last century, when it was only dissolved by the consequences of the rebellion in 1745.

(*c*) Whitaker's Manchester, 8vo ed., vol. ii., p. 302; Dalrymple's Mem., v. i., p. 345-52, of the manners of the Highlanders.

(*d*) In making a new road between the parishes of Longforgan and Rossie in Perthshire, there were recently discovered several stone coffins containing human skeletons, with various pieces of silver and copper money. The silver coins were of Henry IV. The copper coins were nearly of the same size. Some of them were ornamented with Fleur de lis, but had no legible inscription. The other coins were quite rude, without any figure or inscription, and appear to have been only hammered. Stat. Account, v. xix., p. 560. On cutting a road through the burying-ground of St. Ninian's chapel, in the parish of St. Vigeans in Forfarshire, several stone coffins were discovered. Stat. Account, v. xii., p. 183. On digging at the west end of the church of Coupar-Angus, there were discovered a number of stone coffins containing human skeletons. Some of these coffins were formed of one entire stone, which had been hollowed by art, and which had a flat stone cover; others were formed of two stones that were scooped out and placed together, enclosing the body. These stones were hollowed in such a manner as to suit the shape of the human body, being widest at the shoulders, narrowest at the neck, and having a place properly rounded out for the head. Ib., xvii., p. 11.

(*e*) Martin's Western Isles, p. 109. A remnant of such manners continued as late as the beginning of the seventeenth century. On the 10th of July, 1609, King James granted to Fergus Macbeth the office of principal physician within the boundaries of the Scottish Isles, with the lands of Ballenabe and Tarbet. Macfarlane's MS. Collections.

which prevented fish from being considered as food, the effects whereof have been felt even in our own age. Whatever encouragements have been offered to incite the practice of fishery, neither the Welsh, the Irish, nor the Gaelic people of Scotland have yet entered with ardour into the views of the legislature in promoting the catching of fish as a national object. There is a proverb among the Gaelic Highlanders even to this day, which speaks their contempt for the Scoto-Saxons as *fish eaters.* When we see a principle of religion which was itself exploded producing consequences through so many centuries of change, we ought not to be surprized that the manners and customs of the same races of men should have continued for ages so extremely analogous.

The natural state of the Gaelic tribes both in Ireland and in Scotland was that of war. Among such a people, who were addicted to such manners, there existed a thousand causes of quarrel not only between individuals but among clans. Their irritability induced them to suspect injuries, and their bravery prompted them to resent wrongs. The war-cry was no sooner raised and the *fiery cross* carried through the district, than every warrior of the clan repaired to the accustomed rendezvous, in order to maintain the character of the chief and to vindicate the rights of the tribe.

The *war-cry* may be traced up to the earliest ages among the most ancient people. It was a sort of watch-word by which the individuals of the same clan recognised each other either amidst the darkness of night or the confusion of battle; and the cries of war were of very different kinds. The most common were the names proper, as when Gideon gave *his cry* to his party against the Midianites, *To the Lord and to Gideon.* Others were cries of invocation, such as the cry of Montmorency: *God assist the first christian.* But the most interesting were the cries of *rendezvous*, as *Montjoie Saint Denis;* rally under the banner of St. Denis *(f).* The Celtic nations seem to have been peculiarly attached to the war-cry, owing, perhaps, to the hostile state of society wherein they usually lived. The Irish in all their encounters commonly used a general exclamation, crying out, as we know from Spenser, *Ferragh! Ferragh!* (*g*). The usual war-cry of each particular tribe was *Abo*, which seems to have been a common interjection. As *Butler-Abo, Crom-Abo,* which the Irish parliament at-

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(*f*) Gebelin Monde Primitif., tom. viii., p. 225.

(*g*) Spenser's View of Ireland, 1596, p. 119. From the Irish *Fear,* a man, was formed the verb, *Ferragh,* which is pronounced *Ferra,* to act like a man, to fight stoutly. O'Brien's Dict.

tempted in vain to abolish, in opposition to the manners of the people (*h*). The Duke of Leinster, notwithstanding the statute, assumed *Crom-Abo* as his appropriate *motto*, without much deranging private quiet or disturbing the public peace (*i*). During the turbulent times of Elizabeth the war-cry of O'Neal was *Lamh-dearg-Abo,* that is *bloody-hand,* which is O'Neal's badge, the arms of Ulster, and the cognizance of the baronets. The war-cry of O'Brien was *Lamh-laidir-Abo,* or the *strong hand* (*k*). Every Irish clan had anciently its appropriate war-cry, for the hostile purpose of rousing the tribes to arms (*l*).

The Scoto-Irish brought with them the ancient custom of *war-cries,* though they seem not to have used the affix *Abo,* which was, among the Irish, merely a pleonastic interjection. The posterity of the Irish colonists adopted, like their progenitors, a general cry, which they usually raised before the onset began, shouting with an allusion to their native country and their generic name, *Albanich !* (*m*). Among the people of North-Britain, the *war-cry* was called sometimes the Slughorn, and often the Slagan ; yet generally the name of the place where the clan were to meet on the approach of danger, was the word of alarm (*n*). The chief of the Mackenzies had for his *Slughorn, Tulloch-ard* (*o*), or the high hill. The chief of the numerous clan of the Grants had for his

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(*h*) Those two cries in particular, and all other clannish watch-words, were abolished by the Ir. Stat. 10 Hen. 7, ch. 38, which directed that no lord or gentleman should use any other *call,* but only *St. George* or the *King.* On this subject see Selden's Note in Polyolbion, p. 68.

(*i*) The *Crom-Abo* of the Geraldines is a proper *war-cry :* for the *Crom* is merely the name of a castle which belongs to that family near Limerick, called *Crom*-castle ; and consequently the original meaning of this *war-cry* was to collect the Geraldines under the walls of Crom-castle.

(*k*) Spenser's View of Ireland, p. 119.

(*l*) Harris's Ware, p. 162-3.

(*m*) *Albanich* is the name by which the Gaelic Scots call themselves to this day, from *Alban,* the ancient appellation of North-Britain. On this subject Hoveden has preserved a very curious fact : at the battle of the Standard, in 1138, says he, "Exclamavitque simul exercitus Scottorum insigne "patrium, et ascendit clamor usque in cœlum, *Albani, Albani.*" Saville, p. 483. The Gaelic people of the Hebrides, before engaging in battle raised a general cry, which was called, in their speech, *Brosnuchadh-chath,* an incentive to *battle.* Martin's Western Islands, p. 104.

(*n*) Nisbet's Heraldry, v. ii., p. 24 ; Mackenzie's Heraldry, p. 97. The Slughorn and Slagan are both from the Saxon language, as we may learn from Somner. In the Gaelic the war-cry was *Blaodh a Cogadh.* The Gaelic *Coranach,* or *Cronach,* which was of old the funeral cry, came afterwards to signify the cry of alarm. Dunbar, in his *Daunce,* having introduced a *highland padyane* for the purpose of ridicule, says,

"Be he the *Corenach* had done schout,
"Erschemen so gaderit him about."

(*o*) This is still the name of a high hill in Kintail, the country of the Mackenzies.

warcry, *Craig-elachie*, or rock of alarm (*p*). The chief of the Macphersons had *Craig-ubhe*, or the black-rock, for his Slughorn (*q*). The chief of the Macdonalds had for his Slughorn, *Craig-an-Fhithich*, the rock of the raven. The chief of the Macfarlanes had for his Slughorn, *Loch Sloy*, a place in the district of Arrochar at the head of Loch-Lomond (*r*). The chief of the Macgregors had for his Slughorn, *Ard-Challich*. The chief of the Buchanans had for his Slughorn, *Clareinch*, an islet in Loch-Lomond where he anciently resided. Mercer of Aldie had for his Slughorn, *The Grit-pool*. During the progress of manners, districts appear to have acquired the war-cry as well as the chieftains. The war-cry of Braemar, in Aberdeenshire, is *Cairn-na-cuimhne*, the cairn of remembrance. Even now, after so many customs have been buried in oblivion, if this cry be raised within that district in any fair or assembly of people, all the men collect for the purpose of protecting the injured individuals. The district of Glenlivet has also for its war-cry, *Bochail*, the name of a well-known hill in this vicinity. If this cry be raised even at this day, in any of the neighbouring markets, the men assemble, and a tumult ensues. After the revolutions of a thousand ages, such are the singular remains of ancient manners, when government was feeble, and the law was unheard.

The Gaelic clans of the west and north communicated those singular customs to the Saxon septs of the south and east, who had already adopted, as we have seen, much of their peculiar language, and many of their legal terms. In this manner the invaders of Ireland at all times borrowed more from the Irish than the Irish borrowed from their invaders. The war-cry of the Scoto-Irish was denominated *Slagan*, or Slughorn, by the Scoto-Saxons (*s*). The war-cry of the potent family of the Scots of Buccleugh was *Alemoor*, from its commodious situation in the midst of the clan. The slagan of the Homes was "*a Home! a Home!*" and of the Douglases, "*a Douglas! a Douglas!*" The Maxwells had for their cry, "*I bid you bide Wardlaw*," which is the hill above

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(*p*) *Craig-Elachie* formed the entrance into Strathspey; Craig-*Ioloch* signifies in the Irish, as we learn from O'Brien and Shaw, the rock of *alarm*.

(*q*) The *Craig-ow* is a small but well known black rock in Badenoch, the country of the Macphersons.

(*r*) *Sluai* in the Irish means a multitude or army: whence we may infer that Loch-Sloy derived its name from its being a place of rendezvous.

(*s*) *Slag* in the Saxon, as we may learn from Somner, signifies *bellicum*, an alarm to war, and is so called, says Hicks, from *Slag-an*, percutere, as what was struck off from the metal. Thoresby's Leeds, p. 111-267.

Caerlaverock-castle, where the clan rendezvouzed. The Johnstons, when they were the wardens of the borders, assumed for their slagan, "*Light thieves all*," which was merely the command of the warden to alight from their horses and submit to the law (*t*). During the change of customs, ancient families converted their war-cries into *mottos*, which they placed upon escrols above their crests; as the Dukes of Lennox, like the Duke of Leinster, assumed the war-cry of the family, *Avant Darnley*, as an appropriate motto for their armorial crests. Districts had also their peculiar pennons, which distinguished the several septs amid the conflicts of the clans (*tt*).

Neither Celtic Ireland, however, nor Celtic Scotland used armorial bearings. Henry VIII. on being proclaimed king of Ireland, is said to have given her the harp as a distinguishing mark of her feats in music, which has remained in her escutcheon, the well-known badge of her national arms (*u*). Fiction and heraldry have concurred in deriving the armorial-bearings of Scotland from a grant of Charlemagne to Achaius, when the fabulous league was concluded between those princes, who probably knew not of the existence of each other. Yet fiction must submit to fact, and heraldic assumptions must bow down to common sense. History comes in to assure us that none of the predecessors of William, who began to reign in 1165, adopted a coat-armorial;

(*t*) Nisbet's Heraldry, v. ii., part iv., p. 245; Sir G. M'Kenzie's Heraldry, p. 97. At the fatal battle of Flodden in 1513, the Earl of Huntly, says [Lindsay of] Pitscottie, thinking to regain the field, "called his men together by *Slughorn* and sound of trumpet." History, p. 213.

(*tt*) By the charter of Moray, which was granted to Sir Thomas Randolph by Robert Bruce, the men of Moray were required to follow his standard, "unà cum alijs qui *vexillum Moravie* sequi solebant antiquitus." Robertson's Index, li.

(*u*) Ledwich's App. to Walker's Hist. Mem. of the Irish Bards, p. 11. The position of Ledwich seems to be confirmed by the series of the Irish coins, as we see them in Simon's Essay. "The harp," says he, "for the first time appeared on the Irish coins in the year 1530." Pl. v., No. 103. Yet it is certain that when a commission was appointed during the reign of Edward IV. to inquire what were the arms of Ireland, the commissioners returned that her arms consisted of *three crowns in pale*. There remains in the College of Arms a curious roll containing the badges of the Earls of Warwick from Brutus the founder, which was composed by the celebrated John Rous, the Warwick antiquary, who died in 1491. He included Richard the Third as an Earl of Warwick. The antiquary, in painting the several crests of Richard, surmounted his crest as lord of Ireland with the *harp*, and in order to prevent mistakes, wrote under each crest, England, France, Acquitain, and *Ireland*. These facts demonstrate that English Ireland had armorial bearings in an earlier age than her antiquaries have been disposed to allow; yet these facts do not invalidate my position, that *Celtic* Ireland had not armorial bearings, that is, before the invasion of Henry II.

and diplomacy vouches, with her usual precision, that on his escutcheon the *lion rampant* first appeared as a national badge (*v*).

Neither Celtic Ireland nor Celtic Scotland either made use of seals or coined money (*w*). Their only commercial *medium* was their cattle, like the most ancient nations, during pristine times. The Ostmen were the most early coiners in Ireland, and Alexander I. established the first mint in Scotland. In both those Celtic countries, penalties were annexed to crimes in cattle. In the Irish language *cro* signifies cattle and also death, and hence *cro* came, secondarily, to mean in the Scottish law, the penalty of crimes and the price of blood. In both, as they had not money in their policy, they had not a word for money in their languages; and their modern compilers of word-books were obliged to translate the English or Anglo-Saxon terms for the money of account as well as for coins. Money is now so commodious in the various transactions of life that we can scarcely believe how society could have existed without so useful a measure for all things. The Gaelic people of Scotland borrowed their very terms for the several denominations of money from the Scoto-Saxon inhabitants (*t*). We may observe that there is nothing said of

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(*v*) Lord Hailes's An., v. i., p. 141. We are told by Gebelin that the *lion* was the armorial representation of all the Celtic nations. Yet I suspect that Henry, the son of David I., the Earl of Northumberland and of Huntington, assumed the *red lion*, as the king of beasts was already the armorial bearing of the earldom of Huntington. See Speed's Map of Huntington. William the Lion probably copied his father's example. We indeed first see the lion on the shield of Alexander III. Diplom. Scotiæ, pl. 30. The lion originally appeared on the gold coins of Robert III., and the unicorn as a supporter on the gold coins of James III. Ib., pl. 152, 153. "The *double tressure* was anciently "used," says Nisbet, "in the royal ensigns of the kings of Scotland to perpetuate the ancient league "betwixt them and the kings of France." Heraldry, vol. i., ch. xviii. In 1471 the Parliament of James III. "ordanit that in tyme to cum thar suld be na *double tresour* about his armys, bot that he "suld ber hale armis of the lyoun without ony mar." Robertson's Parl. Record, p. 169. We may easily suppose that it was the English faction which predominated so much in that unhappy reign, and which introduced that fulmination against the *double tresour* in contempt of the ancient league with France; yet the *double tressure* seems to have maintained its place in the armorial bearings of Scotland even to our own times.

(*w*) Ruddiman's Introduct. to Anderson's Dipl. Scotiæ; and Astle on the Seals of Scotland. See Simon's Essay on Irish coins; Harris's Ware, v. i., p. 206; Ledwich's Antiq. of Ireland, 124; Anderson's Dipl. Scotiæ; Cardonnel's Numismata Scotiæ. The attentive diligence of modern antiquaries has indeed discovered in Ireland some silver coins of *Irish* reguli during the eleventh century. Collect. Hiber., v. ii., p. 157. The inscriptions are in the Irish character and language.

(*t*) The Gaelic *Feorling*, a farthing, is from the Saxon *Feorthling* the *th* being quiescent in the Gaelic pronunciation. The Gaelic *Peighin*, a penny, is from the Saxon *Peniȝ*; whence also the Gaelic compound *Leath-peighin*, a half-penny; *Ceathar-peighin*, fourpence; and *Sia-peighin*, sixpence. The Gaelic *Sgillin*, a shilling, is from the Saxon *Scyllinȝ*; so the Gaelic expression *Fiochad-*

gold, or coins of gold, which, indeed, came late into the mintage of North-Britain. In such countries, and during such times, commerce must have consisted in barter. The progress of manners is thus usefully introduced to trace the connection of nations, which system is ever misrepresenting, and to illustrate the obscurity of usages that are daily retiring from our sight, and must soon be lost in darkness.

The *Stones of Memorial* were erected during ancient times in vain, since they were without inscriptions. Besides the stone monuments of the earliest ages and of the rudest forms, which we have already noticed, there exist in North-Britain various pillars and obelisks that, as they exhibit sculptures, show a progress in monumental art. These are chiefly seen on the east coast, though some sculptured monuments are to be found on the western shores of Argyle (*x*). The sculptured stones of North-Britain may be divided into three classes: 1. Religious Monuments; 2. Monuments of Events; and, 3. Funereal Monuments. Of the first class, are the upright stones which stand in a cultivated field near Cargil, and whereon are carved the moon and stars (*y*). Of the stones of memorial, the most remarkable is the sculptured pillar near Forres, which tradition refers to the expulsion of the Danes by Malcolm II. (*z*). Of the same kind are the hieroglyphical obelisks at Aberlemno, which tradition supposes to be memorials of the Danish defeats (*a*). An obelisk at Kirkden in Forfarshire, is also said by tradition to perpetuate the disgrace of the Danes from the vigour of Malcolm II. (*b*). A standing stone on the glebe of Mortlach, in Banffshire, is the traditional memorial of the overthrow of the Danes by their frequent conquerer Malcolm II. (*c*). An hieroglyphical column which stands conspicuous on the moor of Rhynie, in Aberdeenshire, is the last-

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sgillin sacsunach means literally twenty shillings English. The Gaelic *Crun* is obviously from the English *crown*, which again is from the French *Couronne*. The Gaelic *Punt*, as well as the English *Pound*, is from the Saxon *Pund*, which is still thus pronounced by the common people in Scotland.

(*x*) Astle's Observations, Archæol., v. xiii., p. 10, pl. 17. He shows what traces an obvious connection, similar sculptured stones in Ireland. See also Wright's Louthiana, pl. 11, 12, 13.

(*y*) Stat. Acco., v. xiii., p. 536. The field whereon those vast stones stand conspicuous is still called *the Moonshade*.

(*z*) Shaw's Moray, p. 209; Cordiner's Antiq., p. 54; Gordon's Itin., p. 159, pl. 56. Under this head we ought, however, to remember that in after times large stones, which the charters call *Cruces* and *grandes lapides*, were placed as boundaries of lands. Chart. Melros, No. 59, and a *Cumulum lapideum* was also placed for the same useful purpose. Ib., No. 103.

(*a*) Gordon's Itin., p. 151; Pennant's Tour, v. ii., p. 166; Stat. Acco., v. iv., p. 50.

(*b*) Stat. Acco., v. ii., p. 513. (*c*) Ib., v. xvii., p. 445.

ing evidence of a conflict with the odious Danes (*d*). *MacDuff's Cross*, which once stood near Newburgh in Fife, is a sort of memorial of the defeat of Macbeth, which, as it marked the restoration of an exiled king, conferred peculiar privileges on the race of MacDuff, whose valour contributed to that event (*e*). Of the third class, relating to funereal monuments, the carved stones in Meigle church-yard, are memorable for their connection with the renowned Arthur and his unfaithful *Venora* (*f*). In this vicinity, at Glamis, there is a sculptured obelisk, which is called by the popular voice king *Malcolm's Grave Stone* (*g*); and the supposed assassination of Malcolm II. is also perpetuated by another hieroglyphical stone, which stands within the enclosures of Glamis (*h*). In Ross, in Sutherland, and in Caithness, there are several funereal stones which tradition uniformly refers to the Danes (*i*); but the absence of Runic inscriptions seem to refer them to a different people and a later age. There seems, however, to be a true Danish monument in the churchyard of Ruthwell, Dumfries-shire. When it was entire, it appears to have been about eighteen feet high without its pedestal, and to have been sculptured on each of its four sides with foliage and birds and marine animals, and inscribed with *Runic letters* (*k*); and this curious pillar, which seems to be the only Runic

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(*d*) Stat. Acco., xix., p. 292.

(*e*) Holland's Camden, Scot., p. 35. Among other privileges there was annexed to this cross the power of sanctuary. See Cunningham's Essay upon the Inscription of MacDuff's Cross, 1678; Gordon's Itin., p. 164-5.

(*f*) Gordon's Itin., p. 162; Pennant's Tour, v. ii., p. 177, pl. 17. We are by him assured that women are careful how they tread on the grave-stones of Venora, as barrenness, according to the legend, would be the consequence. Stat. Acco., i., p. 506-7.

(*g*) Gordon's Itin., p. 163, and pl. 61.

(*h*) Ib., and pl. 55.

(*i*) At Sandwick, in the parish of Nigg, there stands, on the east shore of Ross, an obelisk with sculptures of beasts and a cross; and here tradition recounts that three sons of a Danish king were interred. There is a similar stone in the churchyard of Nigg, which tradition also attributes to the Danes. Stat. Acco., v. xiii., p. 19. There is another obelisk, which is ten feet high with carved figures, and which stands in the parish of Edderton, in Ross, and is said by the popular voice to be the monument of a prince of Denmark, who, having fallen in battle, was there interred. Ib., v. xi., p. 465. There is an obelisk near the church of Criech, in Sutherland, which is about fourteen feet long, and four feet broad, with a cross rudely sculptured, and is said to be the monument of a Danish prince, who there found repose from barbarous adventures. Ib., v. viii., p. 372-3. At the church of Farr, in Sutherland, there is a large sculptured stone, which is said to mark the grave of a Danish chief, who here rested quietly after all his savage deeds. Ib., v. iii., p. 543. At Wick, in Caithness, there is a large stone with hieroglyphic characters, which is said to mark the grave of a Danish princess, the wife perhaps of a vikingr, during the days of their piracies. Ib., v. x., p. 3.

(*k*) Gordon's Itin., pl. 57, p. 160.

remain in North-Britain, may possibly have been erected by some of the followers of Halfden the Dane; and was certainly ordered by the General Assembly of the Kirk, in 1644, to be thrown down as an object of idolatry to the vulgar (*l*).

There was another class of such monuments which was very familiar to the Irish and the Scoto-Irish, and which may be properly called inaugural stones. The chieftains of clans in Ireland were inaugurated by being placed on stones, whatever the kings may have been when they were severally instituted (*m*). A sort of inauguration existed certainly among the chieftains in North-Britain (*n*). To the same obscure origin may be referred the coronation stone of the Scottish kings. This memorable stone is traced up to a very distant origin. Legend supposes this ill-fated stone to have been the pillow of Jacob; to have been brought from the Holy Land to the sacred island; to have been the individual stone whereupon the supreme kings of Ireland used to be inaugurated in times of heathenism, on the hill of Tarah (*o*). The fatal stone of the Irish legends is supposed to have been a *record* stone in Kintyre before it was brought to Scone by Kenneth as an *inaugural stone* (*p*). Aware of the ancient legend and the national affection which was annexed to this inestimable jewel, Edward I. was induced, by policy, to transfer it from Edinburgh to Westminster. He

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(*l*) Nicholson's Scots Hist. Lib. lxv-vi.; Pennant's Tour, v. iii., p. 85; Stat. Acco., v. x., p. 226.

(*m*) Cox, in his Apparatus, says that "the monarchs of Ireland were neither anointed, nor "crowned, nor inaugurated by any ceremony." Aidan, we know, was anointed and inaugurated in Iona by St. Columba, though during this ceremony we hear indeed nothing of the *fatal stone.* Ferchar I. was *instituted* in the kingdom of Dalriada, by Conan, the bishop of Sodor, if we may believe the learned Usher. Prim., p. 711. From the *inauguration* of Aidan and the *institution* of Ferchar we may infer, in opposition to Cox, that the same practice already existed in Ireland; and see Harris's Ware, v. i., ch. x. Sir George Mackenzie is studious to inform us that "Gregory was the first of our kings who, an° 879, gave the first coronation oath, having "embraced the Christian faith." Observations on the Statutes, p. 176; yet I doubt this assertion, because I have seen nothing like such a ceremony during the Celtic period of the North-British annals.

(*n*) Martin's W. Isles, p. 241. In Islay, says he, there is a large stone, seven feet square, in which there was a deep impression that was made to receive the feet of Mac-Donald, wherein he stood when he was crowned king of the Isles and took the coronation oath; whereupon his father's sword was put into his hands, and he was anointed by the bishop of Argyle and seven priests, in the presence of the heads of the tribes.

(*o*) Toland's Hist. Druids, p. 103; Harris's Ware, p. 67. Wyntoun has a whole chapter, b. iii., ch. ix.:

Qwhen the Kyngis stane of Spanyhé
Fyrst come in Irlande and Brettanyhe.

(*p*) King's Munimenta Antiq., v. i., p. 118.

now caused this coronation-stone to be placed in a *new chair*, to which was added a step, when the whole was settled near the altar before the shrine of St. Edward in Westminster Abbey (*a*). By the treaty of Northampton in 1328, which was confirmed by Parliament, it was agreed that this stone should be returned to Scotland. For this end were issued by Edward III. writs which were never executed (*q*); and this stone, whatever doubts may have been entertained by some antiquaries, still remains in Westminster Abbey (*r*). Strange! that the bardic prophecy should continue to be fulfilled; that the Scottish lineage should govern where this stone is found; and thus the blood of Fergus, the son of Erc, continues happily to reign where this stone even now remains (*s*).

Other antiquities there are in North-Britain, the works of different ages perhaps, and constructed for very different purposes from the uses of those monuments of stone. The singular terraces which appear in several places were undoubtedly intended for various sports. In Peebles-shire, which was famous for its plays, these terraces abound. Near Newlands, on the side of an eminence which is called *Terrace-hill*, and which has the significant remains of a British strength on its summit, are to be seen a dozen rows of artificial terraces, that were raised one above another in a regular series. These terraces, which may be seen at a great distance, appeared to Gordon, the tourist, like a

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(*a*) Among the king's jewels which were discovered in the Castle of Edinburgh, 1296, was "Una petra magna super quem reges Scotiæ solebant coronari." Ayloffe's Cal., p. 353. In the wardrobe account of Edward I., under the year 1300, are the expenses which were then laid out upon that stone when it was placed in the *new chair* with a step, and when the whole was painted and adorned at the expense of 1l. 19s. 7d., which was a great sum in those times. See p. 60.

(*q*) Ayloffe's Calendar, Introd., p. 56-58. Topham, in his introduction to the Wardrobe Account of Ed. I. in 1300, p. 41, says that notwithstanding the orders of Edward III., this coronation-stone has ever since remained in the confessor's chapel, as Edward III. renewed the pretensions and policy of his grandfather, and thought of bending the unyielding necks of the Scottish people.

(*r*) Widemore's Hist. West. Abbey, p. 80; Gent. Mag. 1781, p. 452; Ib. 1782, p. 22. Historians have variously described this stone. In the act of the coronation of Alexander III., the last of the Scottish kings who had the felicity to be crowned in this essential seat, it is said that the Earl of Fife, as it was his privilege to do, placed the king "in Cathedra *Marmorea;*" yet is it added that the king being placed "super hanc Cathedram *lapidani.*" MS. in my Library.

(*s*) The Bardic saw runs thus:

"Except old Seers do feign,
"And wizard wits be blind;
"The Scots in place must reign,
"Where they this stone shall find."

large amphitheatre (*t*). Gordon supposes those interesting works to have been made by Roman hands, for itinerary encampments; the people say they are *Pictish* remains, because they know not either their origin or their use, which indeed cannot be easily ascertained. At the east end of Lyne-bridge, somewhat more than half a mile from the Terrace-hill, there is a small hill with terraces on the side of it, which is called the *Moot*-hill. This name indicates the judicial purpose to which these terraces were applied in much more recent times. They may have been originally constructed for the uses of war, and subsequently converted to the objects of peace (*u*). At Kirkurd and Skirling, there are rows of terraces similar to those near Newlands (*v*). At Smithfield, near the shire-town of Peebles, there are still faint appearances of terrace-walks in an elevated situation (*w*). This intimation carries the reader's recollection to the well-known poem of "*Peblis to the Play,*" which has been attributed, by conjecture, to King James I. (*x*). In Borthwick parish, near Currie, there

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(*t*) Itin. Septent., p. 114-15. Pennycuik gives a much less magnificent idea of those curious remains of art. He says there are only eleven or twelve rows of terrace-walks: he agrees, however, that the like are to be seen upon the top of several other hills in Tweeddale. Geograph. Descrip. of Peebles-shire, p. 16.

(*u*) It is a fact that there are British hill-forts, wherever there are terraces in Peebles. See Armstrong's Map of this shire, with the companion to it; Gordon's Itin., p. 115.

(*v*) Id.

(*w*) Companion to the Map. In Northumberland, near Cornhill, there are similar terraces, which are said to have been designed for exercising the Militia. Wallis Hist. Northum., v. ii., p. 70; Pennant concurs in this improbable conjecture. Tour in Scotland, v. ii., p. 281. Gordon intimates that there are such terraces at St. Oswald, near Severus's Wall, in Northumberland. Itin. Sept., p. 115.

(*x*) The ingenious editor of K. James I. poems, remarks that the annual games of archery and other pastimes, at Peebles, were a *very ancient institution.* Tytler's Remains of K. James I., p. 33-166. The antiquaries have failed egregiously in explaining the nature of the *pastimes at Peebles.* Id. Stat. Acco. of Peebles, v. xii., p. 13, 14; Pinkerton's Scottish Ballads, v. ii., p. 1-161; and Callander's Ancient Scottish Poems, p. 104, who is only studious to tell that, "to *play* is to *plead.*" Those *pastimes* at *Peeblis* were probably very different in successive ages, with the various changes of manners. It is to be lamented that the humourous poet, whoever he were, did not describe the nature of the plays at Peebles, in his elegant poem on this subject. From him, we only learn that they were presented on *May-day,* which was properly deemed "*their feist day*;" and that those pastimes were numerously attended:

"At beltane, quhen ilk bodie bownis
"To Peblis to the play,
"To heir the *singin* and the *soundis*;
"The solace, suth to say,

are similar terraces on the side of a commodious valley (*y*). At Markinch, in Fife, there is a beautiful hill of an oval form which has six artificial terraces on its northern declivity, and which has a meandring rivulet through an appropriate meadow below. The tradition which has preserved the name of *the play-field* to the mead that fronts the terraces, shows with sufficient conviction the uses of the whole (*z*); and this disclosure seems to evince that the terraces and the play-field were constructed in some period subsequent to the present by one of the Earls of Fife, whose influence could engage the whole power of the country in so popular a work (*a*). There are also terraces which resemble those in Tweeddale on the north side of a hill in Glamis parish, with Denoon Castle above, though without a mead below (*b*). At Bochastel, in the parish of Callander, there is an artificial bank which is sixty paces long, in a straight line, having the appearance of two tiers of seats with butts at each end of it (*c*); but the grandest terraces in North-Britain are those of Glenroy, three parallel rows of terraces or wide roads run for seven or eight miles along each side of this valley, which is narrow, with high mountains on both sides of it. These terraces are, undoubtedly, singular monuments of the labour and skill and perseverance of the people who made them. Taken in their whole extent, these terraces are at least forty-eight miles long; each terrace being near seventy feet broad, which are cut out of the curving sides of

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"Be firth and forrest furth they found;
"They graythit tham full gay;
"God wot that wald they do that stound,
"For it was their *feist day*,
"Thay said,
"Of *Peblis to the Play*."

The same pastimes of *singin* and *soundis*, continued till the age of James V. who, in his *Christ's Kirk on the Green*, recollected *Peebles at the Play*. Dr. Pennycuik, who published his description of Tweedale, in 1715, informs us that "Here [Peebles] upon the fourth of May, is yearly run a "famous horse-race, for a large silver cup." The antiquarian minister of the place, after speaking of *ancient tournaments*, adds, "their horse races continued to be held at *Beltain*, till the middle of the eighteenth century." Stat. Acco., v. xii., p. 15.

(*y*) The Reverend J. Clunie's MS. Account.

(*z*) Stat. Acco. v. xii., p. 551-2.

(*a*) We know that the dramatic satire of the Three Estates by Sir David Lindsay, was acted near Cupar, in Fife, at the early period of the sixteenth century; they may have been also presented on this very playfield, at Markinch, before the coarse gentry, who were arranged on the terraces above; and other games of a more healthful and salutary tendency, may have been exhibited there, in much prior times; perhaps justice was here administered to the whole country by the Earl of Fife, who was governor and judge. Sibbald's Fife, p. 140.

(*b*) Gordon's Itin. Septent., p. 164.

(*c*) Stat. Acco., v. xi., p. 609.

the glen. There are also similar terraces in the neighbouring valleys of Glen Spean and Glen Gluy (*d*). The tradition of the country attributes those vast works to the accommodation of hunting. When we recollect the huntings of the Earls of Athol during the days of Mary Stuart, we may easily conceive what must have been the huntings of the Scottish kings in Glen-roy during earlier times, when a whole nation was collected by a common passion (*e*).

We are now to review those curiosities which have been lately discovered, the vitrified forts that exist in every part of North-Britain. They were first brought before the public in 1777 (*v*). It is apparent from the descriptions of those vitrified forts, that they are in every respect, except the vitrification, the same as the hill-forts of the Britons in North and South-Britain, and in Ireland (*w*). The sites of all are the same, being constructed on the level summits of lofty hills, the access to which was generally on one side. The ramparts which defended the area on the top, were in the same manner formed of stones, without mortar, though some of these ramparts appear now to have

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(*d*) Pennant's Tour in Scotland, v. ii., p. 394 ; Stat. Acco., v. xvii., p. 549.

(*e*) Pennant's Tour in Scotland, v. ii., p. 64. For the entertainment of that queen by the Earl of Athol, two thousand Highlanders were employed to collect the deer of the central highlands.

(*v*) See an account of some remarkable ancient ruins, lately discovered in the northern parts of Scotland. By John Williams, mineral surveyor.

(*w*) Book i., ch. ii. Of these vitrified forts, which may be traced in every district of North-Britain, there are in Galloway three ; one called *the Mote of Mark* on the river Urr, upon the narrow top of a high rocky hill. Stat. Acco., v. xviii., p. 3. There is one in Buittle parish, on a farm called Castle Gower. Ib., v. xvii., p. 132-3. The other is in Anwoth parish, on a steep rock, elevated about three hundred feet above the level of the sea. Ib., v. xiii. p. 351. In Kintyre, there are several vitrified forts ; on Dunskeig-hill there is a *vitrified rampart*. Ib., v. x., p. 56. There is a vitrified fort in the parish of Killean. Ib., v. xix., p. 628, v. x., p. 539. There is a fort of the same kind on the bay of Carradel. Ib., v. xii., p. 485. In the Isle of Bute, on *Dun-gall*, the *strangers hill*, there are evident vestiges of a *vitrified wall*. Ib., v. i., p. 312. In Inverness-shire, there are those stupendous vitrified forts, which first excited the public curiosity : Craig-Phadric, Dun-dhairghal, Tordun, and Dun-Fhion. Williams's Acco., p. 31, 76, 77 ; Trans. Royal Soc. of Edin., v. ii., part ii., p. 3-13, with the annexed plates ; Williams's Acco., p. 38 ; and Stat. Acco., v. viii., p. 43 ; Ib. v. xx., p. 38 ; Pennant's Tour, v. i., p. 201-2 ; Stat. Acco., v. xiii. p. 524. In Ross-shire, there is Knock-ferril, which is one of those vitrified forts that was first found, and most minutely inspected ; the engineer made a section across the summit of this hill-fortress, and discovered its well. Williams's Acco., p. 7-12 ; Archæol., vol. v., p. 256-9. In Sutherland, there is the vitrified *Dun* of Creich, which rises to a great height above the frith of Dornoch, and the cement of the rampart of which is as hard as rock. Stat. Acco., v. viii., p. 373. In Nairn-shire, there are Castle-Finlay, which was surrounded by a *vitrified wall* ; and Dun-Evan, the vitrifactions whereof are less apparent. Williams's Acco., p. 36-8 ; Transac. of Royal Soc.

had with the stones, a mixture of earth and rubbish. They seem also to have had the usual adjuncts of such strengths, consisting of wells, roads, tumuli, temples, and other accommodations; and it thus equally appears that all those hill-forts in Britain and Ireland, were the works and the safeguards of the first people, or their immediate descendants. Nor could those fortresses be the labours of the Danish rovers, who neither penetrated far enough into the country, nor remained long enough on the shore, to erect such impregnable strengths (*x*).

With regard to the vitrification, various systems were immediately formed. Those philosophers who arrogated the most knowledge, decided that the hills and forts, and vitrification, were all the necessary effects of extinct volcanoes (*y*). Inquirers of a different sort have said, indeed, with less confidence, that the hills are natural, that the forts are artificial, but that the vitrifactions are volcanic (*z*). The discoverer of those vitrified forts, with those who have followed him, maintain that vitrifaction was used when those strengths were erected,

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Edin., Part ii., p. 13. In Aberdeenshire, there are the vitrifications on the hill of Noth, the *Noeth* of the Britons, signifying in their descriptive language, naked, bare, exposed. Cordiner's Scenery, p. 11-13; Archæol., v. vii., p. 88. In the same shire, there are the vitrifications of Dunideer, which more modern art has applied as materials for the royal palace of Gregory. Ib., p. 89; Stat. Acco., v. xvii., p. 487; in the same shire, at Troup, a peninsulated rock, hanging over the sea, was once fortified by a *vitrified wall.* Williams's Acco., 67-8. In Kincardine-shire, there is the green carn of Balbegno, the fictitious castle of Finella, which was once surrounded by an inner wall, thirty feet thick, "that has all undergone the operation of vitrification." Ja. Strahan's MS. Description and Plan, which he surveyed by my directions in 1798; Stat. Acco., vol. v., p. 334. In Forfar-shire, there is upon the Castle-hill of Finhaven, an eminence of great height, a British fortress which was once surrounded by a rampart of dry stones, but cemented by a semi-vitrified substance. Pennant's Tour, v. ii., p. 165; Trans. Royal Soc. Edin., v. ii., Part ii., p. 14; Stat. Acco., v. i., p. 465; in the same shire, on Drumsturdy-moor, upon the summit of a mount, stood an ancient fort, which had once been surrounded by a rampart that appears to have been vitrified by the external application of burnt wood. Stat. Acco., v. xiii., p. 484: on Dundee-law, the most ancient fortress has partly undergone a partial vitrification by the accidental application of fire. Ib. v. viii., p. 206. In Perth-shire, on Barry-hill, among the ruins of the ancient fort, are several pieces of vitrified stone, which must have been accidental, as they are few and inconsiderable. Ib., v. i., p. 508-9.

(*x*) The ruins of the ancient works on Dunideer, in the Garioch, evince that the castle, which tradition supposes to have been the residence of Gregory, whom fiction calls *the great*, was, in a great measure, constructed from the vitrified fragments of the more ancient walls. Archæol., v. vi., p. 89; Stat. Acco., v. xvii., p. 87.

(*y*) Phil. Transact. 1777, Part ii., No. 20.

(*z*) Pennant's Tour, v. ii., p. 165-6; Cordiner's Scenery of Scotland, p. 11-13.

as a mode of architecture (*a*); but a more sober inquirer has clearly shown that the vitrified forts are the elaborate works of design for the security of the earliest people, and that the vitrifactions are the accidental effects of fire upon structures which had been formed of fusible materials (*b*).

(*a*) Williams's Letters throughout, and Dr. Anderson's Essays in the Archæol., v. vi., p. 89: Ib., vol. v., p. 256-9. As the vitrified forts in North-Britain are merely the same sort of structures as the earliest strengths of South-Britain and of Ireland, wherein no vitrifications have yet been discovered, the probability is that the ramparts were not originally constructed by the action of fire.

(*b*) See Mr. Tytler's Account in the Phil. Transact of Edin., Part. ii., p. 3 to 32, with the plates annexed. In Williams's Account, p. 81, there is a letter from that celebrated chemist, Dr. Joseph Black, which is written with all the modesty of knowledge, and which shows "that there are in most "parts of Scotland different kinds of stone which can, without much difficulty, be melted by fire." This truth is confirmed by experience. The fort of Cullen, which is of a much more modern erection, was burnt down by accident, and exhibits many vitrifactions as the necessary effects. Cordiner's Scenery, p. 49; and Stat. Acco., v. xii., p. 153. The vitrifactions on the *law* of Dundee were probably produced by the frequent action of the fires which were lighted on it during the middle ages as beacons. The vitrifactions on the hill, in the parish of Anwoth, are said by the minister "to "have been the accidental effect of large fires kindled on those high rocks, either for some domestic "purpose, or for signals to alarm the country on the approach of an enemy." Stat. Acco., v. xiii., p. 351. The British strengths appear to have been frequently used as the commodious sites of succeeding people; the Romans erected forts within the British strengths at Burrenswark, at Castle-over, at Wood-castle, at Inchtuthel. In the same manner the Danes re-fortified Burgh-head, the *Ptoroton* of the Romans; Macbeth probably made some use of the British fort on "high Dunsinan-hill." In Wales the more ancient forts were converted into more modern strengths; a round tower was erected within the area of the British hill-fort called Caer-gurle, in Flintshire. Munimenta Antiq., v. i. p. 42-82-85.

CHAP. XI.

Of the Learning and Language during this Period.

THE celebrated school of Iona, which was founded, as we have seen, by Columba, ruled by Cumineus, and administered by Adamnan, and which in the prior age had instructed the various regions of Northern-Britain, gradually disappeared amidst the frequent ravages of the Scandian vikingr during the present period (*a*). The school of Abernethy, which was established at the Pictish metropolis by Kenneth, but ill supplied the loss of the Columban learning at Hy. This was a period of savage adventures, as we have perceived in our progress, and of barbarous manners, which forbade the cultivation of letters; and the seminaries, which were established on the neighbouring continent by Charlemagne and his successors, attracted the few scholars who arose

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(*a*) The following notices, as they have been collected from the Ulster Annals, and from the Irish Martyrologists, will show with sad conviction, the frequent ravages of the Danish pirates, and the final destruction of the venerable abbey of Iona. In a° 797, the monastery of Hy was burned by those ravages. In a° 801, it was again burnt by the same Danish rovers, with its inhabitants. In a° 805, the people of the monastery of Hy, amounting to sixty-eight, were destroyed by the Danes. In a° 814, died St. Kellach, the son of Conghall, the abbot of Hy. In 816, Diarmid, the abbot of Hy, went into Scotland with Columba's reliques. In a° 824, Blathmac, the son of Flann, was martyred in Hy by the Danish Pagans. In a° 864, Cellach, the son Aillil, the abbot of Hy, died in the land of the Picts. In a° 879, died Ferach, the son of Cormac, the abbot of Hy. In a° 890, died Flan, the son of Maoledrin, the abbot of Hy. In a° 935, died St. Aongus, the son of Murchartach, the coadjutor of the abbot of Hy. In a° 945, died Caoinchomrach, the abbot of Hy. In a° 964, St. Fingin, the bishop of Hy died. In a° 985, the monastery of Hy was rifled on Christmas-eve, by the pirates who killed the abbot with fifteen of his learned disciples. In a° 1004, died Maolbride O'Rinneve, the abbot of Hy. In a° 1015, died B. Flamidi Abhra, the abbot of Hy. In a° 1069, the monastery of Hy was destroyed by fire. In a° 1070, B. M'Boithen, the abbot of Iona was killed. In a° 1099, died B. Duncha, the son of Moenach, the abbot of Hy. While life was thus uncertain, what knowledge could be cultivated by the learned of Iona!

during an infelicitous age (*b*). Meantime, not a person came upon the stage of learning who is remembered for any endowments of mind or superiority of knowledge in North-Britain, if we except Turgot, a monk of Durham, and bishop of St. Andrews. The abbots of Dunkeld, during the Scottish period, are exhibited by the foregoing history oftener in the field than in the schools. Berbeadh appears, indeed, conspicuous as the rector of the schools of Abernethy during the age of Turgot (*c*). In this period the foundations of the Scottish Church were only laid, while the edifice of the English church was raised to some height by the authority of ecclesiastical councils under the influence of abler men (*d*). Learning became stationary in North-Britain under the Culdee establishments of the Scottish period. The introduction of foreign scholars by David I., when he reformed the Celtic church of Scotland, gave a new body and an energetic soul to the learning of his people.

If we were indeed to convert this inquiry into an investigation of the *Gaelic* literature of Gaelic Scotland, the labour of the research would be still worse requited by the success of the investigation. The bards enjoyed all the erudition among the Celts of old, as we know from classic authors. But their learning, whatever it were, declined as the precepts of christianity prevailed. The introduction of the christian religion and of useful letters into Ireland had probably the same epoch. Whatever the Irish professed of either, they brought into North-Britain soon after the sixth century began. Of the learned professions, the divines possessed a sort of monopoly of the erudition which existed during those religious times. Law and Physic, as they were hereditary in particular families, whatever may have been the profit to the individual, communicated little instruction to the people, who were restrained by ancient habits from receiving the lights of knowledge or propagating the effusions of literature. The total absence of inscriptions on sculptured stones within North-Britain throughout the Scottish period, is an instructive fact; we may indeed say, in the strong language of a great dramatist, that "Dumb cairns and unbreathing "stones star'd on each other." This fact seems to evince, with full conviction, that the Gaulish maxim, which, as we have seen, discountenanced *writing*

(*b*) Launoy, "De scholis celebribus, a Carolo M. ex post Carolum M. in occidente instau-"ratis."

(*c*) Berbeadh, "Rector scholarum de Abernethy," is mentioned, among other considerable persons, who are witnesses to a grant in favour of the Culdees of Loch Leven; "et coram cæteribus "totius *universitatis tunc de Abernethyn.*" Reg. of St. Andrews; Crawford's Off. of State, Ap., p. 430-1.

(*d*) See Book iii., ch. viii.

as an unwarlike practice, came down to the Gaelic people of Scotland as a confirmed habit (*a*).

Yet the same Gaelic people of Scotland seem to have transmitted by tradition appropriate *music*, which has conferred celebrity on their Celtic country. England, meantime, is acknowledged to have no *national* music (*b*). The Welsh, the Scots, and the Irish have all *melodies* of a simple sort, which, as they are connected together by cognate marks, evince at once their relationship and antiquity (*c*). Yet it is idly supposed by Hawkins that the *Scots music* was introduced from the north of England even as early as the age of Bede (*d*). Sacred song may have been then introduced into the Scotican churches (*e*); but this does not apply to the *Scottish melodies*, which are supposed by the more learned Burney "to be of higher antiquity than it is generally thought" (*f*). James I., who was undoubtedly a very accomplished prince, is yet allowed by some to have been the original composer of the Scottish melodies (*g*); but as what he knew of music had been learned in England, he could not teach what he had not been taught. The wretched Rizzio has been reprobated by all the admirers and historians of music as either the author or the improver of those Scottish airs whose artless tones will be admired while the heart shall continue to be affected by what is simple and pathetic.

Music and poetry have been considered by critics as sister arts. Since the Gaelic Scots have transmitted to their countrymen those celebrated melodies, it is supposed that they must necessarily have excelled in poetry; and the

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(*a*) Astle seems to have proved in his useful work on *writing*, that the *letters* of the Irish and Scoto-Irish, are similar to each other; and that the oldest specimens of writing, which he had obtained, were of the tenth century. Plate xxii. and page 123.

(*b*) Hawkins's Hist. Music, iv., p. 7.

(*c*) Cambrensis mentions the appropriate music of all those Celtic people; and as he wrote during an age when there were few Saxon people in North-Britain, this fact alone evinces that the melody and song of Scotland were indigenous among the Gaelic people. Major mentions that in his time, at the beginning of the sixteenth century, the *Highland Scots* were the principal *harpers*. His contemporary, Dunbar, laughs at the minstrels of Edinburgh, for having only two tunes. Satire on Edinburgh.

(*d*) Hist. Music, iv. p. 1-8.

(*e*) Stephen Eddi, or Heddius, a monk, was one of the first masters for *singing* in the Northumbrian *churches*; and was, for this purpose, invited out of Kent, by Archbishop Wilfrid, as Bede relates. This singing monk wrote the life of Wilfrid, which was published in Gale's Collections of English Writers, vol. iii. Tyrrel's Hist. England, v. i., Pref., p. x.

(*f*) Hist. Music, i., p. 38. He also shows what confirms his intimation, that there is a great likeness between the Scotch melodies and the Chinese music.

(*g*) Arnot's App. Hist. Edin., p. 632.

poems of Ossian, composed as they were in an age of rude antiquity, are produced as sufficient proofs of this obvious assumption (*h*) ; but as the poesy of Ossian was composed in the Scoto-Irish language, we must recollect when that expressive tongue was first heard in North-Britain. The Erse language was not introduced here, as we have clearly seen, till the *sixth* century ; it did not become general in North-Britain till the ninth (*i*). The Poems of Ossian turn much on the Danish invasions of Ireland, which did not commence till the ninth age began. These intimations of history confine the poesy, and the heroes of Ossian, to much more recent times than their supposed epoch. That the Gaelic people of Scotland have transmitted poetry, appears from adequate evidence to be certain ; and the reign of Malcolm-Ceanmore produced a Gaelic *Duan*, which, whatever may be its merit as a *poem*, has supplied some historical notices ; yet recent inquiry has not been so much occupied about the nature as about the identity and existence of the common language of Gaelic Scotland during the Scottish period of her annals. The preceding pages may seem to have ascertained what language was actually spoken, though this point is contested by theorists (*k*). A Celtic king, a Celtic government, a

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(*h*) Arnot's Hist. Edin. Ap.

(*i*) See before Book II., Ch. III. ; Book III., Ch. I.

(*k*) "That the language of the *Irish* prevailed in Scotland, saith the Enquirer, 1789, v. ii., " p. 160, after the time of Kenneth, the conqueror of the Picts, there is not the shadow of proof." This assertion is again repeated with some enlargement, " There is not the shadow of Proof that " the *Irish* tongue ever was at all used in *the lowlands* of Scotland." Id. These observations have been re-echoed by the copyists of the Enquirer, 1789. The people who imposed the Gaelic names on places throughout Scotland, must have spoken the Gaelic language. All persons who repeat those Gaelic names in their daily intercourse, speak the Gaelic language in the lowlands to this day. The same theorist who makes the foregoing assertions, again and again acknowledges, however, that " the only *common clergy in Pictland were Irish*." Ib., p. 278-79. " The *Irish clergy*," he adds, " were the *sole churchmen in Pictland*." Ib., p. 282. When the whole clergy of Scotland assembled, as we have observed under Malcolm and Margaret, they could not understand the *English language* of the *Scottish queen*. The king, who understood her language as well as his own, acted as interpreter between them, says Turgot, who was present. Vitæ Sanctorum, 1789, p. 339, 376. The editor of these Lives attempts to explain away the meaning of this curious passage, in opposition to Lord Hailes in his Annals, v. i., p. 35 ; and the notion that the Scoto-Irish speech was the vernacular tongue of Scotland in that age, is considered as a *strange opinion* by the Dissertator on Ossian, and by all those who think that the Picts were a Gothic people. Laing's Hist. of Scot., v. ii., p. 432. The same *strange opinion* of the common use of the Gaelic speech in proper Scotland, was entertained by Buchanan, whose authority may perhaps influence some minds : " Totaque, says he, tum Scotia *prisco* " *sermone* et institutis uteretur." Ed. Man., p. 167. The context shows that by the *ancient speech*, Buchanan meant the *Gaelic* language. Ib., p. 47-51. In the same opinion concurred with Buchanan, Verstegan, a native Fleming, and a better antiquary, who assures us that, "As now (at

Celtic church, concur to evince that the people were necessarily Celtic who spoke the Gaelic tongue. That the Cambro-British speech was spoken by the Picts of the prior period, is a fact which we have seen established as a moral certainty (*l*). That the Scots overpowered the Picts, and over-ran North-Britain in the subsequent period, which began with 843 A.D., are events that have been historically settled (*m*). That the Scoto-Irish tongue was spoken in every part of proper Scotland, from the accession of Kenneth, the conqueror of the Picts, till the demise of Donal-bane, is a proposition which may be made so certain, as not to be doubted by any one who would avoid the charge of obstinacy or folly. If such a proof were required, it might be introduced to the mind of the sober sceptic, under three heads : 1. The names of Persons ; 2. The appellations of places ; and 3. A comparative topography of the *Saxon* names of places in the south, with the *Gothic* names, in the northern parts of Scotland.

"the conquest) the English court, by reason of the abundance of Normans therein, became most "to speak French ; so the Scottish *court*, because of the queen and the many English that came "with her, began to speak English, the which language it should seem King Malcolm himself "had before that learned, and now by reason of the queen did the more affect. But the English "tongue did in fine prevail more in Scotland than the French did in England ; for English be- "came the language of all the south part of Scotland ; *the Irish before that having been the general* "*language of that whole country*, since remaining only in the north, where, by reason of the altera- "tion thereof in the south parts, the vulgar Highlanders began to call their southern countrymen "by the name of Englishmen, and that part of Scotland by the name of England." Restitution of Decayed Intelligence, 1605, p. 180. He who cries out that, "There is not a shadow of proof "that the Irish tongue was ever at all used in the lowlands of Scotland," may be confronted with the notorious John Harding, who travelled through Scotland in 1434, under a safe conduct of James I. ; and who reported that he heard the *wild Scots* speak the *Irish tongue* in the *Gariach* and in the lowlands of Moray. Gough's Top., v. ii., p. 581. Why, the *Irish tongue* was commonly spoken in the celebrated school of Aberdeen, during the reign of Mary Stewart. See that rare book Vaus's *Rudimenta*, Edin., 1566. The historian, Major, informs us indeed that "Una "Scotiæ medietas Hibernicæ loquitur." Hist. Ed., 1521, fol. 15. Munster, the geographer, after relating the migration of the Scots from Ireland, more especially adds : "Scoti utunt in hodiernam "usque diem pro majori parte *Hibernica lingua*." Cosmographia, 1559, p. 48. Thus, they both concur in the same fact. Here then is something more than *the shadow of a proof* that the Irish tongue was generally spoken in Scotland till recent times. It is, indeed, an instructive fact which confirms those authorities that the Gaelic language is even now spoken throughout two thirds of proper Scotland, lying northward of the two friths, as we may learn by comparing the appropriate informations of the several ministers in their Statistical Accounts with the map of Scotland.

(*l*) Book I., Ch. I.

(*m*) In Book III., Ch. I., V., VII., VIII., IX.

1. The names of persons in proper Scotland appear to have been all Gaelic during that period, as we know from record (*n*). The appellations and sobriquets of the Scottish kings and of the royal family, were obviously Irish, however they may have been blundered by copyists, or barbarized by translators (*o*). The chief nobility of *the lowlands*, beyond the Forth, were mostly Celtic as low down as the memorable accession of Robert Bruce, if we except the Gothic earls of Caithness (*p*). The appellations of bishops, abbots, and indeed the whole clergy, were all Gaelic during the Scottish period (*q*).

At the demise of Donal-bane, the whole people, inhabiting every district of proper Scotland, spoke the Irish tongue, if it be true, as we have seen, that they were ruled by Scoto-Irish kings, and instructed by Scoto-Irish ecclesiastics. At that epoch the Gaelic people expelled the English, as we may learn from the English chroniclers (*r*). During the reign of William the Lion, the Gaelic

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(*n*) See the Chartularies throughout. See the Ancient Chronicles; the Annals of Ulster; the Register of the Priory of St. Andrews, as the contents thereof have been published in the Enquiry, 1789, v. i., p. 450-70. Notwithstanding the influx of many new settlers during the twelfth and thirteenth centuries, the great body of the people who inhabited the *lowlands of Scotland* was still Celtic. This appears conspicuous in the Chartularies, particularly wherever we find a number of the inhabitants collected together. David I. granted to the monks of May the half of the lands of Ballegallin in Fife, "sicut *Gillecolm, Mac-Chimhethin, Macbeth, Mactorfin*, et *Malmure*, Thein de Cellin, eis predictam terram pertinueret." Chart. of May, No. 4. The principal persons whom David I. convened to decide a controversy about the lands of Kirkness, near Loch Leven, were *Constantin*, the earl of Fife, and great judge in Scotland, *Macbeth*, thane of Falkland, *Dufgal*, the son of *Mac-Che*, and *Maldoineth*, the son of *Machedach*. Reg. of St. Andrews. At the end of the twelfth century the lands of Balfech in the Mearns were perambulated, in pursuance of the king's precept, by *Angus Mac-Dunet, Malbride, Mac-Leod, Duffs Coloc* of Fetteressoe, *Muirac, Malmuir, Mac-Gillemichael, Gillechrist, Macfadworth*, and *Cormac* of Nig, et alios probos homines domini regis *de Anegus* et *de Moernes*. Chart. Arbroth., 70. In 1231 some lands in Fife were perambulated by the following jurors: *Gillecrist de Laen, Gilleconstantin, Gillethomas, Bridi Camb, Gilleserf, Mac-Rolf, Gillemartin, Gillecolm, Mac-Melg, John Trodi, Rescoloc, Gillandres, Seth Mac-Loed, Gillepatrick, Mac-Manethin*. Chart. Dunfermline. Such were the Gaelic jurymen of the Mearns, of Angus, and of Fife, in that age; and many such, equally distinguished by their Celtic names, might be enumerated from the Chartularies.

(*o*) See Innes's Crit. Essay, p. 765; the Ancient Chronicles in his Appendix; the Ulster Annals; O'Flaherty's Ogygia, p. 481-491; and see before, Book III., Ch. VII., with the Chronological and Genealogical Tables.

(*p*) The fact appears distinctly in the charters and chartularies of that period which have been just quoted.

(*q*) See the Ancient Chronicles; the Annals of Ulster; and particularly see the Enquiry, 1789, v. i., p. 468-9-70, for those Gaelic names.

(*r*) Sax. Chronicle, p. 200, with which concur Florence of Worcester, Simeon of Durham, and Bromton. This is one of the most curious passages in the North-British annals, and it is as people, even in that more recent age, attempted to expulse the foreigners to their lineage, and stranger to their language, as we know from William of Newbrig (*s*).

2. In the course of colonization, and in the progress of conquest by every successive people, the first language was superseded by the second, and the second language by the third. The first language, as we know from demonstration, was the Cambro-British speech of the original colonists, who remained unchanged till 843 A.D. The second was the speech of the Scoto-Irish, which remained without change in proper Scotland, comprehending *the lowlands* for many an age, even after the epoch of 1097 (*t*). The third was the Scoto-Saxon tongue, which, after that period, gradually superseded the Scoto-Irish, at least in *the lowlands.* It is even possible to show the Scoto-Irish people in the very act of changing the previous language of the Britons or Picts. Thus, David I. granted to the monks of May "*Inver*-in, qui fuit *Aber*-in (*u*)." Here then is a pointed instance, in which the Scoto-Irish people of Fife substituted their own *Inver* for the British *Aber*; both denoting, as the two words are synonymous, the *influx* of a small rivulet into the frith. We may also see another example of such an innovation near the capital of the Picts, at the influx of the Nethy, into the Earn, where the curious eye may perceive both *Aber*-nethy and *Inver*-nethy (*x*). It was thus that the Scoto-Irish people

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decisive of the present inquiry as it is curious; for as it proves that the people of Scotland were Gaelic, it also demonstrates that they spoke the Gaelic language. Now, this is the very point which was to be proved.

(*s*) Lib. ii., cap. xxxiv. On that occasion the Gaelic people drove the Saxon colonists into towns and under castles. This fact proves two points: 1. That the Saxon colonization had made some progress; 2. That the people of the country continued to be Gaelic.

(*t*) In the charters of the twelfth century the Scoto-Irish language was distinguished by the appellation of *Scottish,* as the people were known by the name of *Scots.* In a charter of William the Lion to John Waller, he described the boundary of some lands in Fife as running "usque ad fontem "illum versus Karel [Crail] qui *Scottice Tobari* nuncupatur." Astle's MS. Diplom. Scotiæ. Now, the *Scottish Tobar* of this charter is obviously the *Gaelic Tobar,* signifying a spring. Fife is even now full of Gaelic names, but it had many more when the surveys of Pont and Gordon were made in the reign of Charles I. See Blaeu's Atlas Scotiæ, No. 30, 31, 32; and Ainslie's recent map of this shire.

(*u*) Chart. May, No. 3.

(*x*) See the Map of Perthshire. *Aber*-nethy was the Cambro-British name for the *confluence* of the Nethy; *Inver*-nethy was the Scoto-Irish name for the same object, which had been subsequently imposed by the conquerors of the Picts. Such changes could not have happened if the Scoto-Irish people had not come in on the ancient Picts.

coming in upon the Picts in the ninth century, changed much of the topographical language of North-Britain.

Yet, the Scoto-Irish people in their progress of settlement, throughout every part of proper Scotland, allowed many British names to remain, which continue to be spoken there even at this day. The speech of the primæval Britons, and the tongue of the conquering Scots, are congenerous languages; and the Scoto-Irish people, understanding the propriety of the names which they found imposed by their predecessors, generally allowed them to remain unchanged; and transmitted them by tradition to the people of North-Britain, British, Scoto-Irish, and Saxon, even to this time. Of those words which form the chief compounds in many of the Celtic names of places in *the lowlands*, some are exclusively *British*; as *Aber*, *Llan*, *Caer*, *Pen*, *Cors*, and others. Some of those local appellations are common to both the British and the Irish, as *Carn*, *Craig*, *Crom*, *Bre*, *Dal* or *Dol*, *Eaglis* or *Eglwys*, *Glas*, *Inis* or *Ynys*, *Rinn* or *Rhyn*, *Ros*, *Strath* or *Ystrad*, *Tor*, *Tom*, *Glen* or *Glyn*; and many more of those local names are significant only in the Scoto-Irish, as *Ach*, *Ald* or *Alt*, *Ard*, *Aird*, *Auchter*, *Bar*, *Blair*, *Ben* or *Bin*, *Bog*, *Clach*, *Corry* or *Curry*, *Cul*, *Dun*, *Drum*, *Fin*, *Glac*, *Inver*, *Kin* or *Ken*, *Kil*, *Knoc*, *Larg*, *Lurg*, *Lag*, *Logie*, *Lead*, *Lethir*, *Lon*, *Loch*, *Meal*, *Pit*, *Pol* or *Pow*, *Stron*, *Tullach*, *Tullie*, and others. It is unnecessary to prove how many of the names of places in proper Scotland are significant in those Irish forms (*y*); and yet it is demonstrable, that the Irish people who imposed those significant names within *the Lowlands* of Scotland, must have over-run the country before they could have marked their progress, by imposing on so many places their descriptive appellations.

The topography of North-Britain, rather than her history, supplies that demonstration (*z*). This truth will appear, whether we look for local language into her charters, her tax-rolls, or her maps. The names must have been imposed by a people, who spoke the Celtic tongue before they could have appeared in either of those depositories of topical information. As the British names were applied to the great features of nature by the first colonists, the Irish appellations, which still out-number all other names within *the lowlands* of Scotland, were undoubtedly imposed by the Scoto-Irish people, who subdued the descendants of the original colonists, and gave their own names to their appropriate settlements. Those Scoto-Irish people and their posterity, who transmitted their proper speech by means of those settlements, spoke their

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(*y*) See the Topographical Dictionary.

(*z*) See the Topographical Dictionary.

Gaelic language in every district of North-Britain, from the demise of Kenneth MacAlpin to the demise of Donal-bane. The Pictish speech, which is supposed to have fallen into non-existence, is even now spoken as well in the streets of Edinburgh, as in every district of Caledonia, as often as the British names of places are mentioned in daily life. The Irish continues a living tongue within the *Lowlands,* where it is said to have been never spoken ; the theorists, who cry out for evidence to prove a self-evident proposition, speak and write the Gaelic language, though they be unconscious of the fact ; what is this, but what has been happily called *the learned frenzy of dogmatizing schools.* Yet it may be asked, whence and when did the Irish become here a living tongue ? The answer must be, when the Scoto-Irish people, coming from the western coast, over-ran the east, under Kenneth, the son of Alpin. From that epoch, the Irish language has continually been spoken in proper Scotland, as record and history, tradition and facts, concur to attest in opposition to the follies of scepticism.

Thus, whatever mode of proof may be referred to, it clearly appears that the topography of proper Scotland was purely Celtic, during the *Scottish* period of her annals. It appears, indeed, from the same kind of proofs, with equal distinctness, that the topography of proper Scotland was as much Celtic during the earliest reigns of the Scoto-Saxon period in her subsequent progress, from Gaelic ages of long duration to Saxon times of ultimate prevalence. In the charters of Alexander I., who began his reign in 1124, every one of the names of places, on the northern side of the Forth are Celtic, without one exception of a Gothic or Saxon name, which would show a Teutonic colonization of whatever age (*a*). In the many charters of David I., of Malcolm IV., of William the Lion, as well as the grants of other distinguished persons, the names of places in proper Scotland, are nearly all Celtic, with only a few exceptions, which evince that the Saxon settlers had made but very little change on the Celtic topography during the twelfth century (*b*). From the charters and other documents during the

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(*a*) See the Chartulary of Scone, and the various charters of that king to the monks of Scone.

(*b*) See the numerous charters of those kings in the Reg, of St. Andrews, in the Chartularies of Dunfermline, of Scone, of May, of Cambuskenneth, of Inchcolm, of Lindores, of Coupar, of Arbroath, of Aberdeen, of Moray, and the Diplom. Scotiæ. From *thirty* names in a charter of David I. to the monks of Dunfermline, system has singled out *five*; Pitcorthin, (Pitcur), Kirkalduit, Kinghorn, Smitheton, Wymet; as "a proof, that in 1126 A.D., the language was [Teu-"tonic] Scots, from which these words were derived." See a Dissertation on Ossian. This objection, if it were founded in fact, might be completely confuted, by recollecting that the Scoto-Saxon settlements beyond the Forth had begun long before the epoch of this charter ; but it may thirteenth century, we may perceive that the alteration on the Celtic topography

be shown that the points on which the objection is grounded are mere misconceptions. *Pitcorthin* is not *Pitcur,* as is mistakingly supposed ; but is *Pitcorthie,* which is still the name of two hamlets in the vicinity of Dunfermline. *Petioker* applies to the *Pittyocher* of Blaeu, or *Pittuchar* of Ainslie, a hamlet in Kinglassie parish. Both those names are Gaelic, in whatever form they may appear, as are all the names in David's charter that begin with *Pit,* which in Gaelic signifies a *hollow ;* the *Pit* in those names cannot be derived from the English *Pit,* because it is compounded with Gaelic words in the Gaelic formation, being *prefixed* and not *affixed,* as it would have been if it had been compounded with a Scoto-Saxon or English word. See the Topographical Dict. under *Pit,* which forms the *prefix* of many Gaelic names. The two last examples of the Scottish language are *Smithetun,* which is now *Smeaton,* and *Wymet,* and they are both *in Lothian,* the proper country of the Saxons, and therefore cannot be applied in fair discussion to an inquiry about the Scoticism or Gaelicism of the names of places lying northward of the Forth. Thus the *five* names which were to establish, in opposition to so many Gaelic names, the Scoto-Saxon speech of Scotland in that age, are reduced to two, *Kircaledie* and *Kinhorn,* on the prominent shore of the Forth opposite to Lothian. As these are the only instances wherein the Saxon appears among a crowd of Celtic names, they would have shewn a fair disquisitor how little change the Saxon settlers had yet made in the Celtic topography beyond the Forth. In *Kirk-caledie* the Saxon *Kirc* had been substituted for the Gaelic synonym *Cil* in the original name. See Martin's Reliquiæ Divi Andreæ, and Dalrymple's Col., p. 132. In *Kinhorn* we may see one of the many instances of a pleonastic combination from the language of the successive colonists within North-Britain. To the headland or corner upon which Kinhorn stands, the Gaelic people applied their term *Kin,* to which the Saxons superadded their epithet *horn,* whence the name of *Kin-horn,* which was easily corrupted *Kinghorn,* as the descriptive Gaelic name of *Kinedar* has been corrupted into the unmeaning appellation of *King Edward.* If, says the Dissertator, there had been any writings in the age of Queen Margaret, we might have seen "the harbour where the queen's ship escaped "from the tempest named S. Margaret's Hope, the place where she landed the Queensferry, "whereas it would have been *Portree* had the language been *Erse.*" But the deficiency of writings in that age is a proof of the language being Celtic ; there have not been discovered any charters during Celtic times, and the appropriate name of Queensferry in Gaelic would have been *Aisag-na-bhean-riogh* and not *Port-ri,* which signifies *King's-harbour.* If the Saxon attendants of Malcolm's queen gave the name of *St. Margaret's Hope* to the bay which afforded her shelter, this solitary example would no more prove the contemporary prevalence of the Scoto-Saxon language in proper Scotland than the names that were given to headlands and bays by our voyagers prove what was the existing speech of the savages who roamed upon the desert shores of the South-Sea Islands. The attendants of the virtuous Margaret were driven from Scotland after her decease by the Celtic people as aliens to their lineage and strangers to their speech ; and as there is no proof when the name of St. Margaret's-Hope was given to this bay, we may easily believe what probability attests that this name was imposed by the foreign monks of Dunfermline, in the fond recollection of her legendary miracles. Neither is this systematic writer more lucky in producing Queensferry as an evidence that the Scoto-Saxon language prevailed during that age beyond the Forth. There is no proof that the name had been imposed during the reign of Margaret, who died in 1093. There is positive evidence that this name did not exist during the reign of her youngest son David I., for when he granted this ferry to the monks of Dunfermline of proper Scotland was but inconsiderable during that busy age (*c*). This change becomes somewhat more apparent during the fourteenth century, from the progress of the Saxon colonization and from the change of manners (*d*).

he called it "Passagium de Inverkethin." See the Chart. Dunfermlin. It first appeared under the name of Queensferry in a charter of Malcolm IV. in 1164, when he granted to the monks of Scone and their men free passage, "ad *portum reginæ.*" It is easy to perceive, then, that the name of *Queensferry* is a mere modern translation of a Latin description during prior times. The ancient Gaelic name of the place which is now called Queensferry was *Ardehinnechenam.* Dalrymp. Coll., 122. The Latin charter which founded the Abbey of Holyroodhouse is produced as a demonstration that the national language was not Erse. It is not very felicitous to quote a *Latin* charter founding a religious house in *Lothian,* to prove that the language on the *northward of the Forth* was not Gaelic. The "*Ecclesiæ Sanctæ Crucis*" of this charter was a Latin name applied on this occasion, and so can prove nothing; but system might have seen in this charter that the names of places on the northern side of the Forth are wholly Celtic, and that the greater number of the names of its places even on the south of the Forth are also Celtic, as *Inverleith, Linlitcu, Renfrew, Strivelin, Corstorfin, Avon, Hereth* (Airth), *Pitendriech, Kelcu, Cragenmarf.* Chart. in Maitl. Edin., 144.

(*c*) See the Chartularies before quoted, with those of Balmerinach and Inchaffray and the Diplom. Scotiæ. In the charters of King William, of Alexander II., and Alexander III., as well as of other distinguished persons, to the bishops of Moray, in the 12th and 13th centuries, the names of towns, parishes, and hamlets are nearly all Celtic; of *eighty-two* names of places which appear in those charters, *seventy-eight* are Celtic and only *four* are Scoto-Saxon. See the Chart. of Moray. In the charters to the bishops of Aberdeen during the 12th and 13th centuries, the names of places are in the proportion of *twenty-four* Celtic to one Scoto-Saxon. See the Chartulary of Aberdeen. The names of places on the north of the Forth which appear in the charters of the Diplomata Scotiæ are *forty,* of which *thirty-nine* are Celtic, and the remaining one, *Rossive* or *Rossyth,* is a compound of Saxon that is grafted on a Celtic term. The British *Rhws,* or Gaelic *Ros,* was applied to the promontory here, and to this the Scoto-Saxons added their term *Hyth,* signifying a haven, and assuming in vulgar pronunciation the form of *Hive,* as in *Stone-hive.* St. Andrews appears both under its modern name and under the ancient Gaelic name *Cilrimont.* From the Tax Rolls it appears that the names of the parishes throughout the country from the Forth to the Moray Frith, were very nearly all Celtic in the 13th and 14th centuries. In the *Taxatio,* which was made in the reign of Alexander II., there are in the bishoprics of St. Andrews, Brechin, and Aberdeen, from the Forth to the river Deveron, 241 names of parishes, of which 235 are indisputably Celtic; and the other *six* are Scoto-Saxon or English, as St. Andrews, which took the place of the original Gaelic name Cilrimont. See this curious Tax-roll in the Chartulary of Arbroath and Aberdeen. In a more recent roll of parishes within the bishopric of Moray, extending from the Deveron to the Beauly, there are *sixty* names of parishes which have all Celtic names, except that of Wardlaw, a Saxon appellation that had been substituted for the Gaelic name of Knoc-faire. See the Chartulary of Moray, p. 338.

(*d*) See the Chartularies before mentioned, with Robertson's Index to the Public Records. This useful document shows what a vast change took place in the territorial property of Scotland during the reigns of Robert Bruce and of his son David II., a change that induced a material alteration in the names of many places.

Yet, it was long before the Scoto-Saxon names bore any proportion to the Celtic (*e*); and even now, after all the changes of recent times, the Celtic names are so prevalent throughout the whole extent of the low countries, as to prove decisively that the Scoto-Irish people colonized every district of proper Scotland, after they had overpowered the Picts in 843 A.D. (*f*). We have thus seen that during the changeful effluxion of the twelfth century, the Saxon settlers in proper Scotland began to change the Celtic topography of that country; yet, after a progressive alteration of seven centuries, the Gaelic names are still the most numerous class (*g*). It is, indeed, remarkable that through-

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(*e*) In the Tax-rolls of 1554 there are 924 names of landed estates within the counties of Fife, Clackmannan, Perth, Forfar, Kincardine, Aberdeen, Banff, Elgin, and Nairn, from the Frith of Forth to the Frith of Moray; and of those 924 names, 741 are Celtic and only 183 are Scoto-Saxon.

(*f*) The surveys of Pont and Gordon in the reign of Charles I. evince that even at that period the great body of the names of places within the Lowlands of proper Scotland were Celtic. See the Maps in Blaeu's Atlas Scotiæ. From the recent surveys of shires we may perceive that during the intermediate period much alteration has been made of the names of places in the Lowlands which stretch along the eastern coast, where many of the ancient Celtic appellations have given place to English names of modern innovation; yet the Gaelic names are still so numerous as to show that every part of those Lowlands must have been colonized by the Scoto-Irish people during the long period of their predominance after the great epoch of 843 A.D. All those Gaelic names must have been imposed by a people who spoke the Gaelic tongue.

(*g*) From the vouchers which have been already quoted, thousands of Celtic names, British, and Irish might be enumerated that have altogether disappeared in the course of those changes. In the 12th century the Gaelic name of *Cilrimont* was supplanted by that of St. Andrews; and *Eglis*, near Stirling, by that of *Kirktown*, and this last by St. Ninians. Reg. of St. Andrews, Chart. Cambuskenneth. The British *Aber-cromie* was changed to St. Monance; *Aberkerdur* to Marnoch; *Strathbogie* to Huntly; *Dun*, or *Doun*, to Macduff; *Sanchar* to Burdsyards; *Inver-ern* to Findhorn; and so of many others. In the Celtic names of parishes the prefix *Kil* has been supplanted by the Scoto-Saxon *Kirc*. Some of the Celtic names have been half translated, as *Keltor* (in the charters of David to the monks of Cambuskenneth), into Tor-*wood*; *Aber-tay*, into Tay-*mouth*; *Inver*-spey, into Spey-*mouth*. It is remarkable that, in half translating those names, the Celtic formation has been changed to that of the Saxon or English. Of the class of Celtic names beginning with the Gaelic *Inver*, signifying an influx, many have been corruptly abbreviated by omitting this significant prefix, as *Inver-lieth*, *Inver-lunan*, *Inver-bervie*, *Inver-crudan*, *Inver-bondie*, *Inver-culan*, *Inver-nairn*, are pronounced *Leith*, *Lunan*, *Bervie*, *Cruden*,, *Boyndie*, *Cullen*, *Nairn*. A number of Celtic names that appear, from ancient charters, in a form perfectly intelligible, have been corrupted into complete nonsense; as *Kinedar* into *King Edward*; *Germach* into *Garmouth*; *Breacmonadh* into *Brightmoney*; and the Gaelic *Inver* has been corrupted *Inner*. The succession of the Saxon to the British and Gaelic people in Scotland appears in the composition of many names, which have been formed by grafting Scoto-Saxon words upon the previous Celtic terms: as *Blair-hall*, *Blair-toun*, *Bin-hall*, *Bin-side*, *Ern-side*, *Avon-toun*, *Esk-dale*, *Esk-mount*. *Speys-law*.

out this long course of innovation, the old Celtic names of the most considerable places and noted objects, have been nearly all retained ; the obvious change having been chiefly made on those of less note. The rivers, the lakes, as well as the more conspicuous hills and projecting headlands, have nearly all retained their Celtic names of pristine imposition (*h*). The ancient districts lying beyond the Forth, have all retained their Celtic names, except Caithness and Sutherland on the northern extremity, where the Scandinavian Goths made some settlements, as we have seen (*i*). All the shires in proper Scotland are still distinguished by Celtic names, except the modern counties of Caithness and of Sutherland (*ii*). The chartered boroughs and principal towns throughout proper Scotland, as they were settled by the Gaelic people as hamlets, before they grew up into villages and towns, during happier influences, are still distinguished by their Celtic names of ancient times, except a few in Fife, where the Celtic names were mixed with the Saxon as early as the twelfth century (*k*).

and many others. A number of those compound names are mere pleonasms : as *Bin-hill, Dun*-hill, *Avon*-river, *Esk*-water, *Dal*-field, *Knock*-knows, *Kinn*-aird-*head*, *Alt*-more-*burn*, *Inch-island* ; and so of other pleonastic compositions of fantastic appearance to intelligent eyes.

(*h*) See the Topographical Dictionary.

(*i*) The names of those districts are : *Fife, Fotheriff, Strathdoran,* forming the shires of Fife, Kinross, and Clackmannan ; *Glendevon, Strathearn, Strath-allan, Menteith, Braidalban, Rannoch, Athol, Glen-shee, Strath-ardle, Stormont, Gowrie, Strathmore,* in Perthshire ; *Angus,* including *Glen-isla, Glen-Prosen,* and *Glen-esk,* in Forfarshire ; *Moerne* or Mernes, forming Kincardineshire ; *Marr, Cro-mar, Brae-mar, Breas,* now Birse, *Glen-taner, Glen-muick, Strath-dee, Strath-don, Strath-bogie, Garviach, Formartin,* and *Buchan,* in Aberdeenshire ; and the *Boyne,* the *Ainie,* or *Enzie, Strath-isla, Strath-doveran, Glen-fidich, Glen-livat,* and *Strath-aven,* in Banffshire ; *Moray,* or *Murray, Brae-Moray, Strath-earn, Strath-nairn,* in the shires of Elgin and Nairn ; *Strath-craig, Strath-glass, Glen-elg ; Knoidart, Morir, Arasaig, Moidart, Strath-spey, Badenoch,* and *Lochaber,* in Inverness-shire ; *Ardgowar, Ardnamurchan, Sunart, Morven, Lorn, Appin, Benediraloch, Muckearn, Glen-urchay, Cowal, Argyle, Knapdal,* and *Kintyre,* in Argyleshire ; *Levenachs,* and *Arrochar,* in Dunbartonshire ; *Ross, Ard-Ross, Ardmeanach, Kintail, Lochalsh, Kishern, Toridon, Gairloch, Loch-caron, Coigach,* and *Strath-carron,* in the shires of Ross and Cromarty ; *Assint, Ederachlis, Dui-renes, Strath-naver,* in Sutherlandshire ; and finally *Caithness,* which has a Celtic prefix, with a Gothic termination.

(*ii*) The Celtic names of the shires are *Fife, Kinross, Clackmanan, Perth, Forfar, Kincardine, Aberdeen, Banff, Elgin, Nairn, Inverness, Argyle, Bute, Dunbarton, Stirling, Ross, Cromarty,* or *Crombachty.*

(*k*) The towns which are still distinguished by Celtic names are Perth, Dundee, Aberdeen, Strivelin, that has been perverted to Stirling, Dunbriton, that has been transformed to Dunbarton, Inverkeithin, Dunfermlin, Culross, Clackmanan, Carail or Crail, Dysart, Pittenweem, Kilrenny, Kinross, Coupar, Forfar, Aberbrothoc, Brechin, Munros, or Montrose, Inverbervie, Kintore, In-

On the other hand, not a Saxon name appears on the northern side of the Forth till the twelfth century, as the chartularies attest; and when Saxon names did at length appear from the Saxon colonization of proper Scotland, the appellations which they affixed to their settlements, seem to the judicious eye much more modern in their forms, than the Saxon names within the Lothians (*l*).

Again it were easy to show that the Gaelic tongue was spoken during the Scottish period, even on the south of the two friths. Tradition, history, and facts, concur to evince that before the union of the Picts and Scots, the Scoto-Irish people began to form settlements in Cuningham, Renfrew, and Levenachs, along the shores of the Clyde. After the Scoto-Irish had acquired the ascendency by that union, they overspread the country on the south of the

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verurie, Banff, Inverculan, Elgin, Forres, Invernairn, Inverness, Rosmarkie, Cromartie or Crombachty, Dingwall, Tain, Dornoch, and Inveraray; *Kinghorn* is a compound of Saxon, which is grafted on Celtic; the burgh of Wick in Caithness received its appellation from the Scandinavians who settled on that coast; and Campbeltown in Kintyre is only a century old.

(*l*) The intimations of history as to the settlement of the Saxons during the fifth and sixth centuries within ancient Lothian, and the recitals of the more recent colonization of the English people in proper Scotland during the twelfth century, may be illustrated and confirmed by topography, as it assumed various appearances in successive periods. In the southern shires throughout the Lothians there are many names of places which were imposed in the old speech of the first Saxon settlers before it had undergone any change, such as those compounded of the vocables *Wic, Botle, By, Stow, Stoc, Dod, Cleugh, Hope, Shaw, Wealt, Weyde, Threap, Thwait, Chester;* the names from these old Saxon words gradually decrease in number as we proceed northward through the Lothians to Stirlingshire, and in proportion as they decrease the Gaelic names increase; in proper Scotland these old Saxon words are not to be found in any names of places if we except one or two instances of the *By* in Fife, a single instance of *Shaw,* and another of *Threap.* In this country the Celtic names abound, and such names as are mixed with them are given from the Scoto-Saxon of more recent times after it had undergone a change and assumed the form in which it appears in the 13th and 14th centuries. The most common vocables in the *Scoto*-Saxon names of places on the north side of the Forth are *Ton* or *Toun, Ham, Hill, Muir* or *Moor, Myre, Moss, Burn, Wood, Water, Stane, Ford, Field, Ley, Haugh, Land, Yard, Mill, Kirk, Fauld* or *Fold, Dyke, Seat;* now, all those words were retained in the Scoto-Saxon language as it was formed during the 12th and 13th centuries, and they are of course common to the Scoto-Saxon topography on the south of the Friths; but it is very remarkable that the old Saxon words which have been enumerated and which appear in the topography of the country south of the Forth, are not to be found in the topography of proper Scotland, because they were not retained in the Scoto-Saxon language of the people who more recently colonized this country. Thus does the evidence of topography support the intimations of history, that proper Scotland was inhabited by a Celtic people till the demise of Donal-bane, when the country along the east coast began to be colonized by Anglo-Saxons, by Anglo-Normans, and by Flemings.

Friths. The great numbers of Gaelic names which were imposed by those Gaelic settlers, though they be now much diminished in their numbers, and disfigured in their orthography by modern innovation, clearly show the progress of the Scoto-Irish settlements from the Friths to the Tweed (*m*). The whole of Galloway and Carrick are full of Scoto-Irish names of places. These were all imposed by the Irish colonists, who settled in those countries at the end of the eighth century. These colonists in the subsequent times gradually overspread Kyle, the upper part of Strathclyde, Nithsdale, and even pushed into Annandale and Eskdale; and these Galloway-Irish in their progress of colonization northward, appear from the decisive intimations of the names of places, to have met the Argyle-Irish in their progress southward, in Kyle and Strathclyde. Such then are the lights which topography throws instructively on the obscurities of history; and as good sense forbids the absurd supposition that those Gaelic names could have been imposed on those several places, by any other people than the Gaelic settlers, it follows as a moral certainty, that the Gaelic language was spoken, though not exclusively in the countries on the south of the two Friths, during the long period from the accession of Kenneth MacAlpin to the demise of Donal-Bane.

3. Meantime, during the enterprizing ages of the Scottish period, the Scandinavians, who had settled the Orkney isles, colonized the nearest shores of

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(*m*) The Gaelic names of places which are so numerous in Renfrew, in Strathclyde, in Stirling, in Linlithgowshire, gradually diminish in numbers as we proceed east and south-east through the Lothians into Tweeddale, Ettrick Forest, and throughout Teviotdale and Berwickshire. See the Maps of those countries in Blaeu's Atlas Scotiæ, compared with the modern Maps. The Gaelic names in those districts are not confined to insignificant places, as many of the chief towns, parishes, churches, and villages, derive their descriptive names from the Gaelic language, which was spoken by the Gaelic settlers: such as *Renfrew, Greenock, Rutherglen, Glasgow, Linlithgow, Inver-leith, Dalkeith, Inveresk, Dunbar, Melrose, Dunse;* and the parishes of *Erskine, Inchinnan, Inverkip, Kilbarchan, Kilmalcolm,* and *Kilallan,* in Renfrewshire; *Cambuslang, Cambusnethan, Culter, Dalserf, Dalziel, Dunsyre, Govan, Kilbride, Strathaven, Pittenain,* in Lanarkshire; *Dalmeny, Ecclesmachan, Torphichen, Kinneil, Strathbroc, Binnen, Calder, Corstorphin, Currie, Glencross, Ratho, Gogar, Killeith, Wymet, Garvald, Golyn, Inver-wick, Pitcocs,* &c., in the Lothians; *Aldcamus, Ellum, Eccles,* in Berwickshire; *Botheldun, Alncrum, Minto,* in Roxburghshire; *Drummelzier, Inverleithen, Glen*-holm, *Kilbucho, Skirlin,* in Peeblesshire. See the *Taxatio* of the churches during the 13th century, and the Chartularies of Glasgow, Paisley, Kelso, Melrose, Dryburgh, Newbotle, Coldingham, and Soutra. The Gaelic names of places of less note, such as estates and farmsteads, hills and waters, in those southern counties, are too numerous for recapitulation. See the Chartularies and Maps as above, and see the Topographical Dictionary and the county histories. Many of the persons in the country south of the two Friths who appear in the charters of David I., Malcolm IV., and William the Lion, were undoubtedly of Celtic lineage, as appears from the Gaelic names. See the Chartularies as before.

Caithness and Sutherland (*n*). They did not, indeed, intrude into the interior country, but they established themselves along the coast so firmly, that in their adventurous progress their chiefs disputed for superiority with the Scottish kings, and their descendants may still be distinguished within Caithness and Sutherland as a distinct race of Gothic people from the Saxon inhabitants of the more southern districts (*o*). But it is topography rather than history which exhibits the whole extent of the Scandinavian colonization of Caithness and of Sutherland, and of the nature of the Scandinavian language, which is so different from the Anglo-Saxon speech, though both had a common parent. From Caxton's Chronicle, indeed, we may learn "that *Cateness* is beyond "Scotland." We shall see that the topography of Orkney, Shetland, and *Cateness* is completely different from the Celtic and Saxon topography of Scotland, which does not exhibit one Scandinavian name that is distinct from the Northumbrian Dano-Saxon. On the other hand, the Cambro-British topography of North and South-Britain is the same, the Scoto-Irish topography of North-Britain corresponds with that of Ireland, and the Saxon topography of Scotland is the same as the Saxon topography of England. From all those agreements and coincidences we may perceive the lineage and the language of those several people who successively colonized North-Britain, which we may thus see was never settled by Scandinavian Goths. Had proper Scotland been colonized of old by a Gothic rather than a Celtic people, the topographic language of proper Scotland would have been the same both in sense and in sound as the topographic language of *Cateness*, Orkney, and of Shetland, which is so entirely different from the topographic language of Lothian and of Northumberland (*p*).

(*n*) See before, book iii., ch. iii., vii.

(*o*) See before, book ii., ch. iii., iv., v.; Orkneyinga Saga, p. 48-87; Sagan of Gunlaug, p. 169. 263-5; and Torfæus' Orcades, throughout.

(*p*) A few examples will completely establish those interesting truths. Of the Celtic names of places in Scotland, a very numerous class begin with *Ach*, which signifies a field, or a place for settlement, and *Bal*, which means a dwelling-place, a hamlet; and these words are always prefixed, according to the *Celtic* mode of construction. Of the Scoto-Saxon names in Scotland, the great body terminate in *ton*, or *town*, which, like the Irish *bal*, signifies a dwelling-place, and some terminate with *ham*, a hamlet; and these are always affixed, according to the Gothic mode of construction. Of the Scandinavian names in Orkney, and in Caithness the great body terminate, according to the Gothic construction, in *Buster*, signifying a dwelling-place, in *Ster*, denoting a station, or settlement, and in *Seter*, a seat, or settling place. See Andreas's Icl. Dict.; Verelius's Hervar. Saga; Arij Polyhistor. Schedæ. But there is not a single instance of the *Buster*, the *Ster*, or the *Seter*, in the topography of proper Scotland; because the Scandinavians never effected a

Such, then, are the decisive aids which topography brings to history in tracing the successive migrations of people who settled in various ages within North-Britain. If language be the genealogy of nations, if the topography of Scotland exhibit to the eye and show to the understanding the several tongues of the successive settlers, it follows from those circumstances that topography must furnish proofs the most satisfactory of the nature of the people who gave the existing names to the ancient settlements. This argument has been found so oppressive to those theorists who substitute conceit for knowledge and assertions for facts, that they have endeavoured to free themselves from the weight of reasoning which they could not support by transforming the Gaelic names into Gothic, and by metamorphosing the language of the Maps; so as to

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permanent settlement in that country; and there are no such words, either in the topography or language of England. In Orkney and Shetland, the words, *How, Hoy,* and *Holl,* form the prefix of many names of places in *high* situations; and in the common language of those islands, *How,* signifies a height; but there is not a single instance of *How, Hoy,* or *Holl,* in the topography or language of proper Scotland in that sense. On the contrary, the Scoto-Saxon *How,* signifies a *hollow,* as the *How of the Mearns;* and it is thus applied in the topography of England as well as of Scotland. For *Holl, Hoi, Ho, How,* see Ihre, Wolf, Wachter, and Gibson's Gloss. Sax. Chronicle. In Orkney, Shetland, and Caithnes, *Wattin* is applied to denote water, a lake, from the Islandic *watn.* See Andreas's Dict.; Torfæus's Norway. But there is no such word as *Wattin,* either in the topography or language of proper Scotland. The Scandinavian *Strom,* a current, a stream, is frequent in the topography of Orkney, Shetland, and Caithness; but there is no instance of *Strom* in the topography or language of proper Scotland or of England. For *Strom,* see Ihre, Wolfe, and Andreas. In Orkney and Shetland, the Scandinavian *Tang* is applied to the many long points of land which run out into the sea; but no such word appears in the topography either of Scotland or of England, because it is not in the Saxon language. The numerous points of land which project into the ocean around the west coast of Caledonia, are named from the Scoto-Irish *Ru,* which signifies a projection; and some headlands are named from the Irish *Aird,* which denotes a promontory. In Shetland, the numerous inlets of the sea are named *Voe,* from the Icelandic *Vogr,* as we learn from Andreas; and on the coast of Caithness, several creeks are termed *Goe,* as Girni-*go,* Papi-*go,* from the Icelandic *Go.* See *Go,* in Andreas, and *Gea,* in Arij Polyhist. Schedæ; but there is not a single instance of *Voe,* or *Goe,* in the topography of Scotland. The numerous inlets of the sea on the west coast of Caledonia, are generally termed *Loch,* from the British *Llwch,* or the Scoto-Irish *Loch*; some are called *Pool,* from the Celtic *Pol, Poul, Poll,* and some of the creeks are named *Port,* from the *Porth* of the British, or *Port* of the Irish, a haven; and *Camus,* from the Gaelic *Camus,* a bay. The Scandinavian word *Quoy,* or *Quoya,* forms a compound in many names of places in Orkney, Shetland, and Caithness, and signifies a strip or piece of cultivated land; but there is not a single instance of this word in the topography or language of Scotland or England, because it is not in the Saxon speech. The Scandinavian words which have been thus enumerated and explained, as they denote the chief objects in the settlement of a country, form the great body of the names of places in Orkney, Shetland, and on the shores of Caithness. The other Scandinavian words which appear in the topography of those northern countries, are all equally unknown in Scotland.

substitute fiction for fact, and to establish the absurdities of error for the consistencies of truth. Those theorists seem not to have been aware, when they thus endeavoured by a stroke of perversion to convert the *Celtic* topography of North-Britain into Gothic logomachy, that there is a radical difference in the formation of the *Celtic* and *Gothic* names, which furnishes the most decisive test for discriminating the one language from the other in topographic disquisitions, and even in the construction of the two tongues. Such vocables as are *prefixed* in the formation of the British and Gaelic names are constantly *affixed* in the composition of the Gothic, the Saxon, and English names (*q*). In those names which are simply composed of a substantive and an adjective, the British and Gaelic rule of formation is to place the substantive *first* and the adjective last, while the Gothic, the Saxon, and the English rule is to place the adjective *first* and the substantive *last* (*r*). This radical difference in the formation of the *Celtic* and Saxon names, with other concurring circumstances, such as the nature and signification of the vocables that are conjoined, furnish the most decisive rule for distinguishing the British and Gaelic topographic names from the Saxon, the Gothic, and the English (*s*). By those decisive tests it was that the Celtic names were ascer-

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(*q*) a few examples will illustrate this :

Celtic Names.		*Scoto-Saxon Names.*	*Celtic Names.*		*Scoto-Saxon Names.*
Strath-clyde	-	Clydes-*dale.*	*Bal*-na-craig	-	Craig-*toun.*
Strath-annan	-	Annan-*dale.*	*Bal*-na-eaglis	-	Kirk-*toun.*
Aber-tay	-	Tay-*mouth.*	*Bal*-na-t'sagairt	-	Priest-*toun.*
Inver-ey	-	Ey-*mouth.*	*Ach*-na cairn	-	Cairn-*field.*
Dun-edin	-	Edin-*burgh.*			

(*r*) Take, for example, the following instances of synonymous names :

Celtic Names.		*Scoto-Saxon Names.*	*Celtic Names.*		*Scoto-Saxon Names.*
Uisge-*du*	-	*Black*-water.	Baile-*beg*	-	*Little* town.
Alt-*du*	-	*Black*-burn.	Baile-*more*	-	*Mickle*-toun. *Mickle*-ham.
Bein-*more*	-	*Mickle*-hill.			
Bein-*ard*	-	*High*-hill.	Baile-*meanach*	-	*Middle*-town.
Drum-*more*	-	*Mickle*-rig.	Coile-*more*	-	*Mickle*-wood.

(*s*) Those tests are so decisive as to give the means of discriminating the *Celtic* from the *Saxon* or *Gothic* names, where the form of the vocables compounded are nearly the same. For example: *Dal*, Gaelic, *Dol*, British, signify a flat field, and are frequent prefixes in the names of places: *Dal*, in the Saxon, and other dialects of the Gothic, signify a valley, and is a frequent affix in local names. Now, the names of *Dal*-beth, *Dal*-eaglis, and *Dal*-gain, we certainly know, must be from the Celtic *Dal;* because it is *prefixed* according to the Celtic mode of construction; because it is coupled with Celtic words, as *Beith,* signifying birch, *Eaglis,* a church, and *Gain,* sand; and because the places to which these names are applied, correspond with the signification of the Celtic tained in their nature, and distinguished in their application, from the Saxon names throughout this inquiry, which has historical certainty for its important end.

There is another branch of the same rule which equally shows the different manner in which the Celtic and Gothic people applied the *patronymic mark*, the Celts *prefixed* it, the Goths *affixed* it; hence, we every where see the *Aps* of the Welsh, the *O's* of the Irish, and the *Macs* of the Scottish people *prefixed* to the names of sons, while we perceive the Gothic people always *affix* the patronymic note by adding *son* or *dotter* to the name of the father (*t*). This rule has been the means of discriminating persons throughout this work, which has required the conjoint helps of history, topography, and philology.

We have now seen from this investigation what foundation there was for the doubts of scepticism, whether the Gaelic tongue was spoken in proper Scotland or the Lowlands during the *Scottish* period of her annals, from 843 to 1097 A.D. It was a little absurd to doubt whether the people living in such ages under a Gaelic government and a Gaelic church, with Gaelic kings and Gaelic chieftans at their head were Gaelic; it was still more absurd to doubt whether the Gaelic people of a Celtic country spoke the Gaelic tongue. In order to expose such absurdities to the eye of judiciousness, it was deemed necessary

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Dal. On the other hand, the word *Dal,* in the names of Annan-*dale,* Clydes-*dale,* Esk-*dale,* we certainly know must be from the Saxon *Dal,* a valley; because it is *affixed* according to the Saxon mode of construction, and because it is actually applied to a valley, which the Saxon *Dal* signifies. Again, the Gaelic *Beg,* as well as the British *Byc,* or *Bycan,* signify little, and the Saxon *Big,* signifies great. Now, the names of Bal-*beg,* Strath-*beg,* etc., are ascertained to be from the *Celtic* adjective *beg;* because it is affixed according to the Celtic mode of construction, and because it is compounded with the Celtic words *Bal* and *Strath.* On the other hand, the names of *Big-holm* and *Big-house,* we know to be from the Saxon adjective *Big,* because it is *prefixed* according to the Saxon and English mode of construction, and because it is coupled with the Scoto-Saxon words, *holm* and *house.* By such nice rules of discrimination may the Celtic be certainly distinguished from the Gothic topography of North-Britain, and the Gothic from the Celtic. Those theorists who sit down under the influence of prejudice to support a system, by etymologizing the topography of Scotland, merely from a similarity in the combination of a few letters, without attending to the construction, the syllabication, and the location of the names, only delude themselves and deceive their readers.

(*t*) We have already seen in this chapter, some judges and jurors of the 12th and 13th centuries, whose names almost all begin with the Gaelic *Mac.* I will now produce for the illustration of this rule, a decree of the Lawman of Bergen, in Norway, and also the Lawman of Shetland, in 1485: there are Guttorm-*son,* the Lawman of Bergen, William-*son,* the Lawman of Shetland, and Ander-*son,* Sturkar-*son,* Jen-*son,* Swen-*son,* Salmon-*son,* Thoma-*son;* Johns-*dotter,* Alexanders-*dotter.* See James Mackenzie's Grievances of Orkney and Shetland, Edin. 1750, App. No. 1, which is a very curious document.

to treat this subject under three distinct heads: 1st, To prove affirmatively that the persons of proper Scotland during the Scottish period, the kings, the nobles, and clergy, and even the resentful commons, were a Gaelic people. When we hear the Saxon Chronicle declare that the Gaelic people of North-Britain rose up as one man at the demise of Donal-bane to expel the English, the Normans, and other foreigners, who can doubt whether the Scottish people at that epoch spoke Gaelic or Gothic; when we perceive that the Scottish people again rose a hundred years afterwards to expel the English settlers; and when we hear Major and Munster, at the beginning of the sixteenth century, pronounce that the one half of the Scottish people spoke Gaelic, who can reasonably doubt whether the people of proper Scotland during that long effluxion of years were Gaelic or Gothic. 2. The topography of proper Scotland was brought in affirmatively in aid of history, to prove that the names of places at the demise of Donal-bane were all Celtic, and must necessarily have been imposed by a people who spoke Gaelic. 3. The Saxon topography of Lothian was compared with the Gothic topography of Caithness, in order to prove negatively that the non-existence of Gothic names in proper Scotland incidentally evinces the non-residence of a Scandinavian people in *the Lowlands* during any age. Such are the proofs, both affirmative and negative, which must for ever demonstrate the often mentioned theory of an early colonization of proper Scotland by a Gothic people to be an egregious fiction. When the dogmatist shall hereafter cry out in the face of moral demonstration that *there is not the shadow of proof that the Gaelic tongue was ever spoken in the Lowlands,* his outcry must be heeded as the wail of childishness or the bawl of idiotcy.

Such was the philological point to be proved! We shall soon perceive in our progress the introduction into proper Scotland of Saxon colonists with their Saxon tongue, who gradually imposed some new names and finally acquired an ascendancy, both in polity and in language, over the usages and speech of the Scoto-Irish people, who had themselves previously domineered over their Pictish predecessors. We shall perceive in our historical advance what efforts of power and what length of time were requisite to silence the Gaelic speech in the Lowlands of Scotland, by introducing gradually the Scoto-Saxon tongue in its ancient place.

We are at length conducted by the progress of events to the conclusion of the Scottish period of the North-British annals. It began and it ended with a revolution which has passed unheeded by history. The first was accomplished by the Scoto-Irish people, who, when they had conquered the Picts, everywhere introduced their own language and customs, established their peculiar polity, civil, and religious, and brought with them their royal family and their native Maormors. The last revolution will be found in the course of our inquiries to have introduced a Saxon people with a different dynasty, a new series of kings, novel maxims, and by a slow progress a dissimilar speech.

BOOK IV.

THE SCOTO-SAXON PERIOD; from 1097 *to* 1306 *A.D.*

CHAP I.

Of the Saxon Colonization of North-Britain during this Period.

THE Scoto-Saxon period, which began one-and-thirty years after the Saxon period of the English annals had closed, will be found to contain historical topics of great importance. The Gaelic Scots predominated in the former period; the Saxon-English will be seen to give the law in this. We shall perceive a memorable revolution take place, concerning which the North-British annals have hitherto been altogether silent; we shall soon observe a new people come in upon the old, a new dynasty ascend the throne, a new jurisprudence gradually prevail, new ecclesiastical establishments settled, and new manners overspread the land. It must be the business then of this Fourth Book to investigate the Anglo-Saxon colonization of proper Scotland by modes of proof as uncommon as they are decisive, to narrate the history, both civil and sacred, from documents of a nature as novel as they are satisfactory; and to exhibit the laws, the customs, and the manners of the dominating people under aspects of attractive appearances.

History, if instruction be its end, is written in vain, unless the successions of the people of whom it treats be periodically traced, the dissimilarity of their various tongues be distinctly marked, and unless the changes of their polity and the series of their rulers be deduced from their sources to their effects through every change in their fortunes, whether happy or adverse. Such retrospective notices are peculiarly useful in the North-British annals, which have been obscured by system and distorted by controversy.

A regard to all those objects demands that, in tracing the Anglo-Saxon colonization of North-Britain, we should advert to the several lineages who have successively inhabited this country in every age. I. At the birth of Christ, the same British people of Gaulish origin possessed both North and South-Britain (*a*). The British people remained during four centuries and a half notwithstanding the Roman conquests, without much other change than acquiring a greater or less civilization from the long residence of the Romans among them; and they left within every district of North-Britain, indubitable traces of their original colonization, in the British names of places which the topography even now exhibits to every inquisitive eye (*b*). II. Soon after the Roman abdication a new people of Gothic origin came in upon the British tribes, settled upon the Tweed and colonized upon the Forth, and in the progress of their conquests intruded themselves upon the Solway and the Clyde (*c*). The Anglo-Saxons left everywhere within the southern districts of North-Britain distinct traces of their settlements by the names which they imposed on places, as the local maps would evince, if history did not relate the arrival of the Angles, their conquests, and their settlements. III. At the recent beginning of the sixth century, a second people, but of Gaelic origin, came in from Ireland upon the British tribes of Kintyre and Argyle, and in the quick progress of two centuries and a quarter the Scoto-Irish colonists overspread the western isles and Highlands, where their descendants have continued unmixed till late times to speak their Gaelic language and to practise their peculiar customs (*d*). IV. At the end of the eighth century new migrants from Ireland settled among the Romanized Britons and Gothic intruders in Galloway, and overrunning that great peninsula by speedy settlement, were after awhile joined by the kindred people of Kintyre and Argyle, in giving new inhabitants to the districts, and novel names to the places as far as the Clyde and the Annan (*e*). Such were the three races of men who were the only people that ever made permanent settlements in North-Britain, if we except the Scandinavians, who colonized Orkney and Caithness. The Britons were the first who became known during the Roman period by the name of Picts; the Saxons were the second people whose descendants have finally prevailed over the posterity of the other two; and the Irish-Scots of Kintyre, Argyle, and Galloway, were the third race who, by a singular fortune, were doomed to new-settle and new-name every district of proper Scotland. The year 843, as it is the commencement of the Scottish period is also the epoch of the ascendancy of the Scots over the Pictish govern-

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(*a*) See a moral demonstration of this truth in book i., ch. i. A distribution of the distinct tribes, throughout every district, may be seen in the same book, chap. ii.

(*b*) See book i., ch. i. ii.; and the Topographical Dictionary.

(*c*) See book ii., ch. ii., of the Strathclyde Britons; and ch. iii. of the Saxons, in Lothian.

(*d*) See book ii., ch. vi., of the Scots.

(*e*) See book iii., ch. v., of Strathclyde and Galloway.

ment. The Scots now mixed with the Picts throughout *Pictinia*, and as they overspread the country gave new names to almost every place which they acquired by their address or arms. It was from this epoch, when the Scots became the predominating people, that their Gaelic language also became the common speech in proper Scotland northward of the two Friths, and that their polity was practised as the universal law, that their manners prevailed as the general usages; and these representations, with regard to those successive settlements, are attested by the united voice of history, tradition, and topography (*f*).

The chief objects of the present inquiry, with regard to the Saxon colonization of *proper Scotland*, must be to trace the change which certainly took place during the Scoto-Saxon period, and which introduced Saxon, Norman, and Flemish colonists among the Gaelic inhabitants. In this period we shall see an Anglo-Saxon, Anglo-Norman, and Anglo-Belgic colonization begin in the country beyond the Forth, and a Scoto-Saxon dynasty commence. In our course we shall perceive the prevalence of the Celtic customs insensibly superseded by the introduction of new manners, and the influence of a Celtic government gradually reduced by the establishment of an Anglo-Norman jurisprudence, and by the complete reform of a Celtic church.

If we were indeed to yield full credit to systematic writers, we ought to believe that all those changes took place during the obscure reign of Malcolm Ceanmore. He undoubtedly married a Saxon princess who brought to Scotland her relations and her domestics. Some barons certainly fled with their dependants into Scotland from the violences of the conquest in England. Insurrection marked the enmity of the Northumbrians during the three subsequent years, 1068, 69, 1070, which unsettled the inhabitants of the north of England, and gave many Northumbrian people to Lothian and to the other southern districts of North Britain (*a*). Malcolm, as he encouraged and aided those insurrections, gave an asylum to the fugitives; and during his incursions into Northumberland and Durham carried away so many of the young men and women that they were seen in the age of David I. not only

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(*f*) See book iii., ch. i., of the Union of the Picts and Scots; ch. vii. of the Civil History of the Scots and Picts. The same book, ch. viii., under *the Ecclesiastical History*, shows clearly that the Scotican church, with its ecclesiastics, were Gaelic; in ch. ix. of the same book, which treats of *the Laws*, we see nothing but Gaelic usages; the same book, ch. x., exhibits only Celtic manners, Celtic customs, and Celtic antiquities; and ch. xi. of the same book demonstrates, by affirmative and negative proofs, that the Scoto-Irish speech was the general language of proper Scotland, from 843 to 1097 A.D.

(*a*) Sax. Chron., p. 174; Sim. of Durham, p. 197, 199, 200-1; Flor. of Worcester, p. 431-2-3.

in every village but in every house within his dominions (*b*). Malcolm also afforded an asylum to Edgar and his sisters, with those Saxons who were attached to their fortunes; and about the same time he married Margaret, one of those sisters whose fecundity and virtues will be found to have had so great an influence on the subsequent affairs of North Britain. Yet, upon the sad demise of Malcolm, the Saxon followers both of Edgar and of Margaret were driven away by the usual enmity of the Gaelic people (*c*). It is thus apparent that the Scoto-Irish were then the predominating people, while the English and Normans were deemed strangers whom jealousy expelled and enmity tried to exclude. Under such circumstances, during a rude age, we can scarcely consider the Saxon colonization as yet efficiently begun in proper Scotland, except by the lowest orders, who consisted of ungenerous *vileyns* (*d*).

During the busy effluxion of the *Scottish period*, indeed, the Scandinavian inhabitants of Orkney and Shetland colonized the nearest shores of Caithness and Sutherland (*e*). They did not penetrate far into the interior of a mountainous country, but they established themselves along the coast so firmly that their descendants may still be distinguished within Caithness and Sutherland as a distinct race of Gothic people, from the Saxon inhabitants of the more southern districts *(f)*. Yet is it topography rather than history which exhibits the whole extent of the Scandinavian colonization of Caithness and Su-

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(*b*) Simeon of Durham, 201. Bromton concurs with Simeon in this curious notice; and the Scala Chronica states that in this irruption Malcolm "toke with him so many prisoners, that "almost every house, in Scotland, had sum of them." Lel. Collect., v. i., p. 531. As far as those notices go to prove that the lowest orders of people in Scotland, during the reigns of David I., Malcolm IV., and William, his successor, were English *Vileyns*, those chroniclers are confirmed by the chartularies; and see Smith's Bede, Ap. No. xx.; Fragments of Scottish Hist., Ap. No. ii.

(*c*) Saxon Chron. Gibson, 199; Flor. Worcester, 4to ed., p. 460. Even when Duncan obtained the government, with the aid of the English and Normans, the Celtic inhabitants would not submit to his authority till he had agreed never again to introduce Normans or English into their country. Ib., 200. This jealousy of strangers continued under Donal-bane. Ib., 201. The same animosity to strangers occasioned insurrections under William the Lion. William of Newbrig, lib. ii., c. xxxiv.

(*d*) Malcolm and Margaret gave several vileyns and *Cumberlachs* to the Trinity church of Dunfermline. Fragments of Scottish History, Ap. No. ii.

(*e*) See before Book iii., Ch. 3-7, and particularly Ch. xi., where this subject is more fully treated.

(*f*) See before Book iii., Ch. xi.; Orkneyinga Saga, p. 48-87; Sagan of Gunlaug. p. 169-263-5; Torfæus Orcades, throughout.

therland, and the nature of the Scandinavian language, which is so different from the Anglo-Saxon of the southern shires (*g*).

After this exposition of the Scandinavian settlements of Caithness and Sutherland, for the purpose of contrast, it becomes necessary to submit satisfactory evidence of the Anglo-Saxon, Anglo-Norman, and Anglo-Belgic colonization, not only of the southern districts but also of proper Scotland, which was wholly inhabited by the Gaelic people when those migrations from England began (*h*). The conquest of England as we have seen contributed to the colonization of Scotland; and some of those Northumbrian insurgents who sought an asylum in North-Britain, as they were persons of considerable consequence, may still be traced in the families which they left firmly settled behind them. Of all those Northumbrians the greatest undoubtedly was Earl Gospatrick, who, being deprived of his country in 1072, obtained from Malcolm many lands in the Merse and Lothian, and left three sons and many vassals (*i*). The sons were Dolphin, Gospatrick, and Waldeve, who were all witnesses to the *Inquisitio Davidis,* 1116 A.D. Gospatrick succeeded to the Scottish estates of his father (*k*). Waldeve obtained from Ranulph and William Meschines vast estates in Cumberland and Westmorland (*l*). He gave lands to three sisters, Ethreda, Gunwelda, and Matilda; his son Alan succeeded to his lands in those counties, and was also very bountiful to his two sisters, Ethelreda, who married Ranulph Lyndsey, and Guynolda, who married Uchtred, the son of Fergus, the lord of Galloway. The heir of Alan was his nephew, William, the son of Duncan, the son of Malcolm Ceanmore; William being the son of Ethreda, the daughter of Waldeve (*m*). Arkel, another of

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(*g*) See demonstrations of that proposition in book iii., ch. xi.

(*h*) See book iii., ch. xi., for full proofs of this important point.

(*i*) Kennet's Par. Antiq., 58; Crawford's Peerage, 307; 1 Dug. Monast., p. 400; the *Cronicon Cumb.* Sim. of Durham, sub An., 1072. One of the Corbets, who probably came from Shropshire, obtained the manor of Foghou, which he held as a vassal of the earls of Dunbar. Chart. Kelso, No. 304. William de Courtney married Ada, the daughter of earl Patrick, and obtained with her the lands of Home. Ib., 120-8. In the charters of Gospatrick, who died in 1166, and of his son Waldeve, who died in 1182, we may see many of their English vassals and officers as witnesses. Diplom. Scoticæ, fol. 71-73. Smith's Bede, Ap. No. xx.; and many of the English vassals who settled under this potent family throughout Berwickshire and East Lothian, may be traced in the chartularies of Coldingham, of Newbottle, of Dryburgh, of Kelso, of Melrose, and of Soutra.

(*k*) Smith's Bede, Ap. No. 20.

(*l*) Douglas, the Peerage writer, was unable to tell what was the fate of Waldeve. Peerage, p. 438.

(*m*) See the Cronicon Cumbriæ, 1 Dug. Monast., 400.

the Northumbrian chiefs who fled from the power of the conqueror, got from Malcolm lands in Dumbartonshire, where his descendants became earls of Lennox (*m*). Merleswane is also mentioned as one of those emigrants from the devastations of the conqueror to the asylum which Malcolm afforded them in Scotland (*n*). He probably settled in Fife, as we see his posterity in possession of considerable estates in that Gaelic peninsula during the twelfth and thirteenth centuries (*o*). Waltheof and Morcar are also mentioned with Gospatrick, the earl, and Edgar, as leaders in the same insurrection (*p*). Siward, Barn, and Alfwin, the brother of Arkil, are also stated as insurgents on those occasions against the conqueror (*q*). Siward was no doubt the progenitor of a numerous family who rose to eminence in North-Britain. Edward, the son of Siward, witnessed a charter of David to the monks of Dunfermline soon after his accession in 1124 (*r*). His descendant, Richard Siward, who lived in the reign of Alexander II., was one of the guarantees of the peace with England in 1244 (*s*). Richard Siward, the grandson of the former, was one of the *Magnates Scotiæ* who engaged to recognise the princess Margaret on the demise of Alexander III. (*t*). As one of the Scottish barons, he sat in the Parliament at Brigham in 1290 (*u*). Richard Siward and his family were involved in the disasters of the succession war (*x*); and on the settlement of the go-

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(*m*) Sim. Durham, 197-9; Crawford's Peer., 256.

(*n*) He is called *Maerlswezen* in the Saxon Chronicle, 173-4. *Marlswen* and *Marleswein*, by Simeon of Durham, 197-99, and *Merle-Swein* by Florence of Worcester.

(*o*) The descendants of that Northumbrian appear to have been in the following series: Marle-Swane had a son Colban, who lived under David I.; Colban had a son, Marle-Swane, who flourished towards the latter end of the same reign, under Malcolm IV., and under William, the Lion. Chart. Dunfermline; MS. Monast. Scotiæ, 106; Chart. Scone; Shaw's Moray; Ap. xiv.; Chart. Arbroath, 63. This last Marleswane was succeeded, in the latter part of the twelfth century, by his son Waldeve, who inherited the manors of Ardross, of Fethkill, and of Kennauchy in Fife. Chart. Inchcolm; Chart. St. Andrews. Waldeve was succeeded, in the reign of Alexander II., by his son Marleswane, who, in 1239, made an agreement with Galfrid, the Bishop of Dunkeld, about the advowson of the church of Fethkill. Chart. Incolm., No. 6. Merleswane died about the year 1250, leaving an only child, Scolastica, who inherited the lands of Ardross, Fethkill, and others; and she confirmed to the bishop of Dunkeld the advowson of the church of Fethkill. Id. No. 7.

(*p*) Scala Chronica in Leland's Collect., v. i., 530; Fordun, l. v., cap. xvii.

(*q*) Simeon of Durham, 199.

(*r*) Chart. Dunfermline; MS. Monast. Scotiæ, 106.

(*s*) Rymer's Fœd., v. i., 428; and see the same Richard Siward, in 1234 A.D. Ib., p. 370.

(*t*) Ib., ii., 266.

(*u*) Ib., p. 471; and see p. 547, 567, 594, and 643, for other notices of him.

(*x*) Richard Siward was one of the leaders of the Scottish army that invaded Cumberland in March, 1296. Math. West., 427; Walt. Hemingford, i. 87. He soon after obtained the charge vernment of Scotland by Edward I. in 1305, Richard Siward was appointed Sheriff of Dumfries (*y*). The family of Siward ended in a female heir, Helen Siward, who having married Isaac Maxwell, carried the blood and the estates of the Siwards to strangers (*z*). In this manner commenced a Saxon colonization, which however did not extend northward beyond the Tay till the *Scottish period* had almost elapsed.

But it was the new dynasty of kings who succeeded at the conclusion of that epoch, that were destined to give a more diffuse course to the peopling of proper Scotland, by Saxon, by Anglo-Norman, and by Flemish colonists. Edgar, the first of that dynasty, forced his way to the bloody throne of his Gaelic ancestors by the decisive aid of an English army. The new polity and the different usages which the Scoto-Saxon kings introduced gradually brought in those new people, who unalterably established the Saxon colonization of North-Britain. In the successive charters of Edgar, Alexander, and David I., the three first kings of that dynasty, we scarcely see any other witnesses than Anglo-Saxons, who enjoyed under them all power, and acquired vast possessions in every district of Scotland (*a*).

The first person of the English race who appears conspicuous as a colonist during the reign of Edgar, was Thor-longus, who obtained from him a grant of Ednaham, which was then a waste, and which he improved with his own money and his *people*. Here he settled a village and built a church, that he soon conveyed to the monks of Durham (*b*). This is an accurate representation of the genuine mode by which the English colonization of Scotland was begun and completed. A baron obtained from the king a grant of lands, which he

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of the castle of Dunbar, and was made prisoner when it surrendered on the 29th April, 1296. Lord Hailes, An. 1. 238-9. On the 4th September following, the English king issued a writ to his lieutenant in Scotland, directing an assignment of 40 marks of land, of legal extent, to Maria, the wife of Richard Siward, and to Elizabeth, the wife of Richard, his son. In this writ he states that Richard Siward held 500 marks *per Annum* of land. Rymer, ii. 728. On the 30th July, 1297, Richard Siward was liberated with several other prisoners, on condition of serving the English king in France. Ib. 775.

(*y*) Ryley's Placita, 503.

(*z*) She lived under David II., when she resigned the barony of Kellie in Fife. Robertson's Index, p. 20, 25, 28, 51. The Sandilands, the Ainslies, and some other families pretend to have come from England into North Britain during the early age of Malcolm III.; but I will not warrant the exact period of their several pretensions.

(*a*) The charters of Edgar are addressed by him, "omnibus in regno suo *Scottis*, et *Anglis*;" the charters of Edgar and of David are witnessed by Englishmen; those of Alexander I. by the Scottish nobles chiefly, as he ruled beyond the Forth.

(*b*) Smith's Bede, Ap. No. 20.

settled with his followers, built a castle and a church, a mill and a brewhouse, and thereby formed a hamlet, which in the practice of the age was called the *Ton* of the Baron (*c*).

During the reign of Alexander I. few foreigners settled in Scotland. His easy communications with England were cut off by the possessions which his brother David held on the southern side of the Friths. He married, however, an English Princess; he introduced a Bishop of St. Andrews from England; he planted canons regular from the same country, at Scone, at St. Andrews, an Inchcolm and at Lochtay, and he encouraged English settlers in his favourite residence (*d*).

It was the reign of David I. which was so propitious to the settlement of Scotland by English families, as he introduced so many favourable institutions. He was educated at the court of Henry I.; he married an English Countess who had many vassals, and when he came to the throne in 1124, he was followed successively by a thousand Anglo-Normans, to whom he distributed lands, which, like Thor-longus, they settled with their followers (*e*). The mixed army which David led to *the Battle of the Standard* in 1138, evinces the mixed nature of his people, who were chiefly Gaelic Scots (*f*). In civil

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(*c*) Whether Thor-longus, who undoubtedly came from Northumberland, where we may find *Thors*-by, *Thors*-ford, *Thor*-man-by, is uncertain. He mentions in his charter his brother Lefwin, who was then dead. There was a *Thor*-aldus, who is mentioned in several charters, under David I., as archdeacon of Lothian. Smith's Bede, Ap. xx.: Chart. Kelso, No. 272-287. There was a *Thor*-de-Travement about the same time. Chart. N. Botle, No. 130. None of those *Thors* were probably the father of Swan, who lived under William the Lion. The Lyons carry their pretensions as high as the reign of Edgar. The claims of the Livingstons to equal antiquity seems to be better supported. Levingus probably settled in North-Britain under Edgar. He certainly obtained a grant of lands in West Lothian, which he called Levingus-ton; and whence was derived the surname of this respectable family. Thurston, the son of Levingus, who inhabited the lands of Levings-ton, lived under David I. Thurston left a son, Alexander, who in a charter of King William, is designed of Livingston. The direct line of this family became extinct during the reign of James the Fourth. Crawford's Peer., 274.

(*d*) See the chartulary of Scone.

(*e*) There are several charters of David I., of his son, Earl Henry, of Malcolm IV., and William, which are addressed to their very mixed subjects in those early times: to the French, the English, Scots, Welsh, and Galloway-men; *Francis, Anglis,* Scottis, Walsensibus, et Galweiensibus. Diplom. Scotiæ. Dugdale's Monasticon; Chart. Kelso; Chart. Glasgow.

(*f*) Aldred, a contemporary writer, describes very minutely his order of battle: the Galloway-men formed the first body, and began the battle, and like other Gaelic men fought without armour. The men at arms were the English subjects of David: the second body was composed of these, and of the men of Cumberland and Teviotdale. The third body was formed of Lothian men, of islanders, and of *Lavernani,* whom I conjecture to have been the men of Levenachs.

affairs David chiefly employed his English barons (*g*). David is said, indeed, to have founded monasteries, built castles, erected towns, and promoted trade, which all tended to colonize North-Britain with foreigners (*h*). Even now may be traced in the chartularies the many Norman-English families who settled in North-Britain under the beneficent reign of that excellent prince.

Among those English settlers not one was more early in his attachment or rose to greater eminence in the state than Hugh Moreville, who came from Burg in Cumberland (*i*). Under David he acquired vast possessions in Lauderdale, in the Lothians, and above all in Cunninghame, along the northern bank of the river Irvine. Under his munificent master Hugh Moreville became constable of Scotland, which office descended hereditarily through a long succession of illustrious heirs, both male and female (*k*). He was the original founder of the monastery of Dryburgh, and he died in 1162 (*l*). By Beatrice de Bello-Campo, his wife, he left Richard de Moreville, who enjoyed his high office and great possessions, and became the principal minister of William the Lion. Richard married Avicia de Lancaster, who is emphatically

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David put his chief trust in his new subjects. The Celtic Earl of Strathearn, who was not harnessed, broke out into indignation at the preference shewn to the men at arms. Alan de Percy, with the spirit of his family, said the Earl boasted of more than he dared perform. The King interposed. The reserve consisted of the true Scots and the Moray-men.

(*g*) In the *Inquisitio Davidis*, 1116, we may see as witnesses, among other Englishmen, Cospatrick, the brother of Dolphin, and Waldeve his brother, Cospatrick, the son of Uchtred, Cospatrick, the son of Alden, Maccus, the son of Unwyn, Hugh de Moreville, Gervase Ridel, Berenger de Engain, Robert Corbet, Walter de Lindsey, Robert de Burneville, Alan de Percy, Walter de Bron; and in the charter of the same Prince to the monks of Selkirk, we also see as witnesses, Robert de Brus, Robert de Umfraville, Reginald Muscamps, Radulf Anglicus, Roger de Leicester, with other Englishmen.

(*h*) Fordun, l. v., cap 53. As it is obvious from record that David was the legislator who instituted the *Leges Burgorum*, it is apparent from the fact that the intimations of Fordun are not altogether unfounded.

(*i*) *Inquisitio Davidis*; see Dug. Monast., v. 274, 5, 6, for his charters and the grants of his daughter Johanna, who married Richard de Germin, which show their liberality to the monks of Holm-Cultram. This Hugh de Moreville, the progenitor of an illustrious family in Scotland, must be distinguished from the assassin of Beckett in 1171, who was also of the North. Dug. Baron, i., p. 612.

(*k*) The chart. of N. Botle evinces that Hugh de Moreville was Constable before the year 1140.

(*l*) "An. 1162. Obiit Hugo de Moreville, fundator ecclesiæ de Dryburg." Chron. Mailros, 168. He also founded a monastery at Kilwinning in Cunningham, for Tyronensian monks, who were transplanted from Kelso. He appears from the chartularies to have had a brother William de Moreville, who had for his wife Muriel, and had lands at Broxmouth in East Lothian. Chart. Kelso, No. 320.

mentioned with him as a patroness of the monks of Mailros. Richard de Morville died in 1189, and his wife Avicia in 1191 (*m*). They left their opulence and feudatories to their son William, and a daughter Elena, who was destined to carry all those enviable objects into a different family. William acted a conspicious part towards the end of the twelfth century. He married Christian, though of what family does not appear (*n*), but she brought him no issue, and he died in 1196 (*o*). On the death of William without lawful children, his high office and vast estates were enjoyed by Elena and her husband Roland, the lord of Galloway (*p*). Their son Alan, who is mentioned in the *Great Charter* of England, was one of the most opulent barons in Britain; and he dying, in 1234, his immense property and great office descended to his three daughters, the eldest of whom, Elena, had married Roger de Quinci, the earl of Winchester; the second, Christian, had married William de Fortibus, the son of the Earl of Albemarle; and the youngest, Dervorgil, had espoused John Bailol, the lord of Bernard-Castle (*q*). Those descents and marriages introduced among the Gallowaymen, to their great discontent, many new people as well as new customs. The chief vassals of the Morevilles rose up in aftertimes to be persons of great consideration in various districts of North-Britain (*r*).

(*m*) Chron. Mailros, p. 178-9. That great baron is noted by the gratitude of the chronicler as "*familiaris noster.*"

(*n*) Christian is frequently mentioned as his wife. Chart. in Bibl. Harl.; Chart. Glasg., p. 165.

(*o*) Chron. Mail., 180. He appears to have had a natural daughter, Alicia, who married Malcolm, the son of David de Constablestun. Chart. Glasgow, p. 449. She is only called the daughter of William de Moreville; but if she had not been spurious issue, she would have succeeded to her father in preference to Elena his sister.

(*p*) Chart. Mailros, No. 133, No. 63.

(*q*) Chron. Mailros, 201; which is somewhat inaccurate as to those matrimonial engagements.

(*r*) Henry de Saint Clare, the founder of the family of Herdmanston, was *Vicecomes* to Richard Moreville, and he acquired from him the lands of Herdmanston, in East Lothian, which had been possessed by Richard Camerarius under Hugh Moreville. Diplom. Scotiæ, pl. 75. The son of Henry, Alan de St. Clare, was Sheriff to William Moreville, from whom he obtained a further grant of lands in Upper Lauderdale. Ib. No. 81. The Morevilles had several English vassals on the lands of Saulton, in East Lothian. Chart. Dryburgh, No. 1-141-142. Chart. Soltre, No. 11-12. The *Thirlstane* family were vassals of the Morevilles. Hugh de Moreville granted the lands of Thirlestane to Elsi the son of Winter. Title-deeds of the Lauderdale family. Elsi was succeeded by his son Alan, who assumed the local surname de *Thirlestane.* Id.; and Alan was succeeded by his son Thomas de Thirlestane, who lived in the reign of Alexander II., and whose only daughter carried the family property, by marriage, to Richard de Mautelant. Id. The first person of the name of *Mautelant* was Thomas, who appears as a witness to a charter of John de

Gervase Ridel was a witness with Hugh Moreville to the *Inquisitio Davidis*, 1116, and witnessed many of his charters after he ascended the throne.

Landeles, of Hownam, in 1227. Chart. Melrose, No. 3. Douglas artfully misquotes this charter and transaction. Peerage, 391. There was one William de Mautcland, who appears as a witness to the charters of subjects, but not of kings, much about the same time. Chart. Kelso, No. 185-241. Richard de Mauteland obtained the lands of Thirlstane by marrying the heiress of Thomas de Thirlestane, who lived under Alexander II. Title deeds of the Lauderdale family. The progenitor of the Clephanes settled in Lauderdale as a vassal of the Morevilles; and Alan de Clephane executed the office of Sheriff of Lauder, under Alan of Galloway, the successor of the Morevilles, in the beginning of the thirteenth century. Chart. Kelso; Chart. Newbotle. The progenitors of the Haigs held the lands of Bemerside, near Dryburgh, under the Morevilles, and under their successors, the lords of Galloway. Chart. Dryburgh; Chart. Kelso, 253, 244. Several other English vassals settled under the Morevilles in Lauderdale; and various places in that district obtained their names from those English settlers, as Ilifs-tun, Lyles-tun, Sampson-shiels, Edgar-hope. See the chartulary of Dryburgh throughout. These observations equally apply to the district of Cuningham, where several English families settled as vassals of the Morevilles. The progenitor of the family of Loudon was a vassal of the Morevilles. James, the son of Lambin, acquired from Richard Moreville a grant of the lands of Laudun, from which he assumed the local surname of *Laudun*. Dalrymple's Col. Pref., lxv.; Chart. in Bibl. Harl., 56. The progenitor of the Cuninghams settled in that country as a vassal of the Morevilles. Warnebald, who came from the north of England, obtained from Hugh Moreville a grant of the manor named Cuningham, in the parish of Kilmaurs, whence he assumed the local surname of Cuningham; and from him are descended the family of Cuningham, Earls of Glencairn. Camden's Brit., ed. 1607, p. 695; Chart. Kelso, 104, 282, 283, 284; Diplom. Scotiæ, pl. lxxv. Several persons who were surnamed Ros, from the north of England, settled under the Morevilles in Cuningham. Godfrey de Ros, James de Ros, Reginald de Ros, and Peter de Ros, were vassals of Richard Moreville, and witnessed his charters. Godfrey de Ros acquired from Richard Moreville the lands of Stewarton, in the possession of which he was succeeded by his son, James de Ros; and these are the progenitors of the Rosses of Halkhead, Ros Lord Ros, Ros of Tarbet, in Cuningham, Ros of Sanquhar, in Nithsdale, and various other families of this name. Chart. Glas., 163, 165; Diplom. Scotiæ, pl. 75, 81; Chart. in Bibl. Harl., 56; Chart. Paisley, passim; Dalrymple's Col., 420; Douglas's Baron, 323; Douglas's Peer., 580-1. Stephen, the son of Richard, got from Richard Moreville some lands in Cuningham, where he settled, and named the place *Stephens-tun*, which is now Stevenston. Stephen witnessed the charters of Richard Moreville, and some deeds of his son William. Chart. Glasgow, 163, 165. Edulf, the son of Uchtred, obtained from Richard Moreville the lands of Gillemorestun, in Tweeddale. Here Edulf settled, and changed the name of the place to *Edulfes-tun*, which has been corrupted by vulgar pronunciation to Eddleston. Chart. Glasg., 163, 165, 251, 255, 257. Another vassal named Edulf got from the same opulent baron some lands in the territory of Lochogow, in Lothian, where he settled; and he was succeeded by his son Adam, and he by his son Constantin. Chart. Newbotle, 33 to 38. Roger Masculus or Maule, of Anglo-Norman lineage, a vassal of Richard Moreville, acquired from him some lands in the same territory of Lochogow, where he settled, and these lands were held by his descendant, Radulph Masculus, under the Lords of Galloway, who succeeded the Morevilles. Chart. Glasg., 163; Diplom. Scotiæ, pl. 75; Chart. Newbotle, 33 to 38. Richard de Warewic, an Englishman, appears as one of the followers of William Moreville. Chart. Glasg., 165.

Gervase appears to have been the first of a very ancient family that came from Ridal in Yorkshire into Scotland. Gervase seems to have been one of the earliest sheriffs of Roxburghshire (*a*). He obtained from Earl Henry a grant of the Manor of Praunwesete [Primside] in Roxburghshire (*l*). Gervase Ridel appears in many characters and offices under David I. and his son Earl Henry; and dying a very old and respectable man, he was succeeded by his son Gaufrid, in his manor of Praunwesete, who lived under Malcolm IV. and William; and was very bountiful to the monks of Kelso and Melrose (*b*). Walter de Ridale lived at the same time with Gervase, and obtained from David I. the territory of Lilliesclif and other lands in Roxburghshire (*c*). All those lands Walter left by will with all his goods to his brother Ansketin (*d*). The Ridels also spread into Mid-Lothian. Hugh de Ridel, who was probably the son of Gervase, settled at Cranstown, which was called from him Cranston-Ridel; and he was the progenitor of the family of Cranston-Ridel (*e*). He seems to have had a brother, Jordan, who appears in the chartularies under Malcolm IV. From this double stock of the Ridels there branched out several families in different districts of Scotland. The Ridels of Roxburghshire settled various vassals under them, who also contributed to swell the population of those districts (*f*).

Robert Corbet, who was one of the witnesses with Gervase Ridel to the *Inquisitio Davidis*, was probably the progenitor of one of the most ancient families in North-Britain (*g*). Shropshire was the original country of the Corbets, where we may see traces of them which still remain (*h*). His son

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(*a*) Sir J. Dalrymple's Col., 348.

(*l*) Chart. Kelso, No. 364.

(*b*) Dal. Col., 365; Chart. Melrose, No. 60-1.

(*c*) Sir Ja. Dalrymple's Col., 348; Doug. Baron., 64. The genealogists mistakingly suppose Walter to have been the eldest son of Gervase; but we see Gaufrid, as the heir of Gervase, in the chartularies which the genealogists saw, or might have seen.

(*d*) Sir Ja. Dalrymple's Col., 348. The will appears to have been confirmed by the several bulls of two Popes.

(*e*) Hugh flourished under Earl Henry and Malcolm IV., whose charters he often witnessed. 1 Dug. Monast., 886; Chart. Glasgow, 296; Chart. Antiq. Bibl. Harl. Douglas again inattentively confounds this Hugh with Hugh the son of Ansketin. Sir Hugh Ridel, during very rough times, had the amenity of a gentleman: having some disputes with the monks of Newbotle about the boundaries of his lands of Cranstoun, he renounced his pretensions on an examination of the controversy, "per vicinos amicos meos, ac per probos ac fideles homines patriæ." Chart. N. Botle, No. 22.

(*f*) Chart. Melrose, No. 12, 13, to 19, and 74.

(*g*) Robert Corbet witnessed the charter of Earl David to the monastery of Selkirk, and a charter of the same prince to the church of Glasgow. Chart. Kelso, No. 4; Chart. Glasgow, 13. He also witnessed a grant of David I. to the monks of Dunfermline. Sir Ja. Dal. Col., 388, 405.

(*h*) Dug. Bar., v. i., p. 515.

Walter acquired the manor of Malcarvestun and other lands in Teviotdale (*i*). Walter Corbet appears to have been an opulent and liberal man, as we know from his grants to the monks of Kelso (*k*). He flourished under Malcolm IV. (*c*). He was succeeded by his son Walter, who became conspicuous at the commencement of the reign of William the Lion. He also was studious to practise the beneficent virtues of the age, as we perceive in the chartularies (*l*). He married Alice de Valoines, the daughter probably of Philip de Valoines, the chamberlain, who also possessed lands in Teviotdale. She brought him a son, Robert, who lived to witness some of his father's charters, yet died before him, and a daughter Christian, who married William the son of Patrick the Earl of Dunbar, and who carried with her as heiress the large estates of her father (*m*). In 1241 died this opulent and liberal woman, the last of this ancient race of the Corbets (*n*). They also had their vassals, who, as they settled around their lords, contributed to people Teviotdale (*o*). Several Corbets, indeed, found their way into the north, and settled in Moray while Brice was bishop, at the beginning of the thirteenth century (*p*). There was a family of Corbets who held the manor of Foghow in Berwickshire, as we have seen, under the Earl of Dunbar (*q*).

The surname of Lindsay is said by Dugdale, who mentions several of this name in England during the 11th and 12th centuries, to have been assumed from the manor of Lindsay in Essex (*r*). There were some of this family who attached themselves to Earl David before he ascended the throne (*s*). Two

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(*i*) Chart. of Kelso and Melrose. (*k*) Chart. Kelso, No. 2 ; Diplom. Scotiæ, pl. 2. (*c*) Id.

(*l*) Chart. Kelso, No. 234-5, 356. He confirmed to this monastery the grant of one of his vassals of some lands in the territory of Malcarvestun. Ib. 237. He likewise possessed a part of the lands of Scottun, and some lands in the territory of Clifton, in Teviotdale, where he had also his vassals. Ib. 356-7.

(*m*) Chart. Kelso, No. 238-258. In her grant to the priory of St. Andrews, she speaks with affection of her husband, of her father, and of her mother. Chart. St. And. Crawford's MS. Notes.

(*n*) "An° 1241, obiit Christiana Corbet uxor Gulielmi filii Comitis, et in capitulo de Melros "sepelitur." Chron. Mailros.

(*o*) See their Confirmation of their vassals' grants in the chartularies of Kelso and Melrose.

(*p*) Sir Archibald and Sir Hugh Corbet, knights, were witnesses to a composition between Brice the bishop and John Byset. Chart. Moray, fol. 28. Hugh Corbet was a witness to several charters in the time of Brice, who died in 1222, and of Andrew who succeeded him. Id.

(*q*) Chart. Kelso, No. 304. (*r*) Dug. Baronage.

(*s*) Walter de Lindsay was a witness to the *Inquisitio Davidis*, 1116, and he also witnessed the charter of Earl David to the monks of Selkirk ; Chart. Kelso, No. 4., and one of the same prince brothers, Walter de Lindsay and William de Lindsay, obtained from David I. various lands in Upper Clydesdale and in Middle and East-Lothian. From those brothers are descended all the Lindsays of Scotland, if we may believe the genealogists. William de Lindsay had for his son and heir, Walter (*t*). He had also a son who was called William, and who witnessed many charters of William the Lion (*u*). This William de Lindsay, the son of William, acted as Justiciary of Lothian during the ten years which elapsed from 1189 to 1199 (*x*). He granted some lands in the territory of Crawford to the monks of Newbotle (*y*). David de Lindsay, one of this family, appears to have settled in Fife, where he held lands under Ermengarde, the Queen of William the Lion (*z*). Several of the Lindsays settled in Berwickshire and in East Lothian, as we know from the chartularies (*a*).

The great stock of the Percies branched out beyond the border into Roxburghshire. Alan de Percy, *le Meschin*, the younger Alan attached himself to Earl David, and adhered to this beneficent prince when he became king (*b*). He accompanied David, with the spirit of a Percy, to the Battle of the Standard

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to the Church of Glasgow. Chart. Glasgow, 13. He witnessed a number of David's charters after he ascended the throne. Randulf de Lindsay witnessed a grant of David I. to the monks of St. Bega. Chart. Ant. Bibl. Harl. He also witnessed a grant of Earl Henry to the monks of Holm Cultram. Dug. Monast. v. i., p. 886. William de Lindsay was a witness to many charters of David I. and of Malcolm IV.

(*t*) Sir Ja. Dalrymple's Col., p. 351-2; and Dougl. Peer., 153-4.

(*u*) William de Lindsay held Ercildon and other lands in Lauderdale under the Earls of Dunbar. Chart. Dryburgh, No. 76 to 83, 115; Chart. Melrose, 143. He granted two bovates of land in Ercildon to the monks of Dryburgh, with the consent *of Walter his son and heir*. Chart. Dryburgh, No. 83. He also granted some lands near Caddisley to the same monks. Ib. No. 76. Chart. Cupar, No. 7-35. These grants were confirmed by Walter his son and heir. Ib. 77; and Walter granted the patronage of the church of Ercildon to the monks of Kelso.

(*x*) Chart. Soltre, No. 6; Chart. Glasg., p. 211; Chart. Kelso.

(*y*) Chart. N. Botle, 144. To this grant David, his son and heir, is a witness with Earl David, the brother of William the Lion. Id. See in the same chartulary a series of grants by this son and heir.

(*z*) David de Lindesay, de Brenwevil, granted to the monks of Balmerinach 20 shillings Sterling yearly, from his mill of Kerchow, "faciendum in aniversario bone memoriæ Ermengard quondam "regine Scotiæ, *dominæ meæ*." Chart. Balmerinach, No. 79. This was confirmed by Alex. II. in 1233. Douglas confounds this David with David de Lindsay of Crawford. Peerage, 155.

(*a*) David de Lindsay was, in the 13th century, under Alexander II., dominus de *Luffenach*, Lord of Lufness in East Lothian. Chart. Newbotle, No. 10. William de Lindsay was, at the same time, Lord of Lamberton in Berwickshire. Id.

(*b*) He was a witness to the *Inquisitio Davidis*, 1116. He witnessed the grant of David I. of Strathannan to Robert Bruce. Chart. Antiq. Bibl. Harl.

in 1138. In return, David gave him the manors of Oxenham and Henton in Teviotdale (*c*). Alan dying without issue was succeeded in those two manors by his brother Geoffry, and he imitated Alan in his bounty to the monks of Jedburgh, Kelso and Dryburgh, as we may learn from the chartularies of those several monasteries (*d*). Geoffry also dying without issue, was succeeded in those lands by his brother Henry de Percy, who also imitated his two brothers in their bounties to the monks on the border (*e*). But he seems to have left no issue to propagate the race, and to transmit the name of Percy in North-Britain.

The Somervilles have just pretensions to be considered as an ancient race. Gaulter de Somerville who accompanied the conqueror to England obtained from him Whitchnour in Staffordshire, and Somerville-Aston in Gloucestershire. He left several sons at the commencement of the 12th century, Gualter who inherited his estates in England, and William, his second son, who attached himself to David I. (*f*). William de Somerville appears to have witnessed many of the charters of David I. (*g*). He obtained in return for his attachment the manor of Carnwath. He died in the year 1142 (*h*). This, then, is the progenitor of the Somervilles of Scotland. He left a son, William,

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(*c*) Alan de Percy granted a carucate of land in each of those manors, with the usual easements, to the monks of Whitby, for the salvation of his own soul, for the salvation of the souls of his *Lord King David*, and his son Earl Henry, and for the souls of his father, Alan de Percy, and of his mother. His grant was witnessed by his brothers, William de Percy, Walter de Percy, Geoffry de Percy, and Henry de Percy. Dug. Monast., v. i., p. 74; Charleton's Whitby, p. 81. This grant was confirmed by David I. and by Malcolm IV., and by his brother Geoffry and Henry. Charleton's Whitby, p. 81-2.

(*d*) To the monastery of Jedworth he granted the church of Oxenham, with two carucates of land and two bovates, lying adjacent to the church, with common of pasture and other easements in this manor. Chart. Jedburgh. To the monastery of Kelso he granted a carucate of land in Heton, "pro salute animæ regis David." Chart. Kelso, 355. To the monastery of Dryburgh he granted two bovates of land in Heton. Chart. Dryburgh, 166.

(*e*) Henry de Percy gave to the monks of Jedburgh the lands of Newbigging, in the presence of Malcolm IV. Chart. Jedburgh. Henry de Percy seems to have been much about Malcolm IV. He witnessed a charter of Malcolm at Roxburgh somewhat before the year 1159. Dug. Monast., v. i., p. 851. He witnessed a charter of Malcolm at Roxburgh in 1159. Diplom. Scotiæ, pl. 24.

(*f*) Dugdale's Bar.; Douglas' Peerage, 624; Sir Ja. Dalrymple's Col., 394-5.

(*g*) Chart. Kelso; Chart. Melros, No. 54; MS. Monast. Scotiæ, p. 106-7; Astle's MS. Diplom. Scotiæ, No. 1. He was a witness of Earl Henry's grant to the monks of Holm Cultram. Dug. Monast., v. i., p. 886.

(*h*) An°., 1142, Ob Willielmus de Sumerville, et apud Melros sepelitur. Chron. Melrose, 206. This date evinces how mistaken Douglas's Peer., p. 624, is on this head.

who died before the year 1161, and whose posterity branched out into many families of great respectability (*i*).

The Umphravilles may vie with the Somervilles for antiquity. Their progenitor, Robert de Umphraville, also came into England with his relation the Conqueror, who gave him Redesdale for his attachment (*k*). A grandson of Robert de Umphraville of the same name appears to have attached himself to Earl David, and adhered to him when he became king (*l*). Robert de Umphraville left a son Gilbert, who also adhered to David and to his son Earl Henry (*m*). He obtained from David the manors of Kinnaird and Dunipace, and other lands in Stirlingshire (*n*). Gilbert flourished also under Malcolm IV., whose charters he witnessed, and he died in the beginning of the reign of William the Lion (*o*). With him also flourished Odonel de Umphraville, who also witnessed the charters of Malcolm IV. as we learn from the chartularies (*p*), and died in 1181 as we know from Dugdale (*q*). It was Gilbert, the great-grandson of Odonel, who married Matildis the Countess of Angus in 1243 (*r*). Gilbert, who thus became Earl of Angus, died in 1245, leaving a son Gilbert, who succeeded to his mother as Earl of Angus, and acted a splendid part during those eventful times, till he died without issue in 1302 (*s*).

Maccus, the son of Unwyn, as he attached himself to Earl David, was one of the witnesses to the *Inquisitio Davidis*. He obtained from this beneficent

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(*i*) Crawford's Peerage, p. 445; Doug. Peer., p. 624. He witnessed many grants of Malcolm IV., as we learn from the chartularies. Diplom. Scotiæ, pl. 24; Chart. Glasg., 300; Monast. Angl., v. i., p. 851.

(*k*) Dug. Baron., v. i., p. 504.

(*l*) Robert de Umphraville is a witness to the charter of Earl David to the monks of Selkirk. Chart. Kelso, No. 2; Sir J. Dal. Col., p. 404. He witnessed a grant of David I. to the monks of Melrose. Diplom. Scotiæ, pl. 14; and he witnessed other grants of David. Chart. Glasgow, p. 21; Astle's MS. Diplom. Scotiæ, No. 2.

(*m*) Gilbert de Umphraville witnessed a charter of Earl Henry to the monks of Wetherall. Dug. Monast., v. i., p. 399; and another grant of Henry. Chart. Glasgow, p. 267.

(*n*) Gilbert de Umphraville granted to the monks of Cambus-Kenneth two carucates of land in the manor of Dunipace. Chart. Cambus-ken., No. 85. His son Gilbert gave to the monks of Holyrood a carucate of land, in the manor of Kinnaird. Macfarlane's Col.

(*o*) Diplom. Scotiæ, pl. 22, 24; Chart. Paisley, No. 8; Chart. Glasg., 300; Chart. Antiq. Bibl. Harl., 10. Gilbert de Umphraville witnessed a charter of K. William to the church of Glasgow. Chart. Glas., 27.

(*p*) Chart. Glasgow, 203; Chart. Antiq. Bibl. Harl., 11.

(*q*) Peerage, v. i., p. 506.

(*r*) Chron. Melrose, 206.

(*s*) Dug. Bar., v. i., p. 506; Lord H. Ad. Sutherland Case, p. 10, 11.

prince whose rights were supported by so many followers, some lands on the Tweed, which from him acquired the appropriate name of *Maccus-ville.* His sons Hugh and Edmond, assumed the surname of *Maccus-ville*, and his grandson Herbert inherited the estate and bore the name, which was abbreviated by the vulgar to *Macswell* and *Maxwell.* Herbert flourished under Malcolm IV. and William (*t*); he rose to be sheriff of Roxburgh (*u*); and from Herbert are descended the knightly families of the Maxwells in Scotland (*x*).

Berenger de Engain, of an Anglo-Norman family, attached himself early to the fortunes of Earl David (*y*). Among other very respectable persons, the fathers of so many families, we may see Berengerius de Engain a witness to the *Inquisitio Davidis.* He obtained from David as the reward of his attachment one of the manors of Crailing in Teviotdale, where he sat down with his family and followers; and here, like a respectable man, he practised the munificence of his age (*z*).

The family of Sules, who settled in the same country during the same age, rose to greater eminence than the Engains. Owing to whatever cause, Ranulph de Sules followed David I. from Northamptonshire into Scotland (*a*). The attachment of Ranulph was amply rewarded by a grant of Liddisdale, the manor of Nisbet in Teviotdale, with some other lands both in this district and in Lothian (*b*). In Liddisdale he built a fortalice, which gave rise to the village

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(*t*) He witnessed several charters of William the Lion. Chart. Glasgow, p. 25. He granted the church of Maccuswell to the monks of Kelso before 1159. Chart. Kelso, No. 2.

(*u*) Chart. Kelso. John de Maccuswell witnessed some charters of William. Chart. Arbroath, No. 31-55.

(*x*) Crawford's Peer., p. 368; Dougl. Peer., 180; Dougl. Bar. 56; Ib. 450.

(*y*) William Engain, who was probably of the same family, witnessed a grant of Earl Henry to the monks of Holm-Cultram. Dug. Monast., v. i., 886.

(*z*) Berenger de Engain granted to the monks of Jedburgh a mark of silver yearly from the mill of Crailing, with two bovates of land, a toft, and a *vileyn;* and for the support of a chaplain who served in the chapel of the same place, he granted other two bovates of land, with another toft, and a third toft, lying near the church. Chart. Jedburgh. This grant was confirmed by William early in his reign. Id.

(*a*) The surname of this eminent family was obviously derived from two bailiwicks which are called *Sule* in Northamptonshire. Brydges Northampton, v. ii., p. 486-7.

(*b*) This Ranulf de Sules, who settled in Scotland before the middle of the 12th century, witnessed a charter of Earl Henry to the monks of Holm-Cultram, about the year 1140. Dug. Monast., v. i.; p. 886. Before the year 1147, he granted to the monks of Jedworth the church of Dodington, near Barton, in Northamptonshire, and the church of Liddisdale, with a carucate of land in the manor of Castletown, and which, as it was unlucky, has produced popular legends. He held the office of *Pincerna regis* for some time during the first years of William the Lion. He died not long before the year 1170, and was succeeded in his estate by his nephew Ranulph, the son of William de Sules (*c*). The office of *Pincerna* did not descend to Ranulph the second, as it was not then hereditary in the family of the Sules (*d*). Contemporary with him flourished under William the Lion, Richard his brother, who witnessed his charter of confirmation, and Fulco de Sules, who must also have been of the same blood, as he confirmed that charter of confirmation (*e*). Ranulph the second fell by a detestable stroke of domestic assassination in 1207 (*f*). Nicolas de Sules, the son of Fulco, succeeded the second Ranulph, and he acquired by his talents the office of Pincerna, which he exercised under Alexander II. and even under Alexander III. (*g*). Amidst the clash of parties which divided Scotland between the Scottish and English interests during the minority of Alexander III., Nicholas de Sules was removed from the king's councils in 1255 (*h*). He died in 1264 with a great character for wisdom and eloquence (*i*). In 1271 William de Soules, the son and heir of Nicholas, was knighted at Haddington, by Alexander III. (*k*). William became justiciary of Lothian under the same

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of Nisbet. Chart. Jedburgh. He appears to have witnessed several charters of David I. Diplom. Scotiæ, pl. 16; Astle's MS. Diplom. No. 1. He witnessed a grant of Earl Henry to Holm-Cultram. Dug. Monast., v. i., p. 886. He witnessed the charters of Malcolm IV. Diplom. Scotiæ, pl. 24; Chart. Antiq. Bibl. Harl; and he witnessed several grants of William the Lion. Chart. Arbroath, No. 6; Chart. Moray, 156.

(*c*) The second Ranulph granted a charter to the monks of Newbotle, *wherein he mentions his uncle the Pincerna*; and this must have been granted before the year 1171, as it was confirmed by a charter of William, which was tested by Nicholas, the chancellor, who died in 1171. Chart. Newbotle, No. 45-6-8.

(*d*) Chart. Cupar, No. 3. (*e*) Chart. Newbotle, No. 47.

(*f*) An° 1207, Ranulfus de Sules occisus est in domo sua a domesticis suis. Chron. Melrose. Of this terrible fact, the minstrel who sung of *Lord Soules* appears to have been ignorant, or he might have turned the grevious end of a respectable man to a poetical use. There never was a *Lord* Soules, whatever the border minstrels may sing.

(*g*) Chart. Newbotle, No. 191. The enjoyment of Liddisdale, of Gilmerton, and of other lands, which were held by the two Ranulphs, evinces that Nicholas was their acknowledged heir.

(*h*) Rym. Fœd. v. i. 566.

(*i*) "An° 1264, obiit Nicolaus de Soules Dom. Vallis de Lydal apud Rothomagum [Rouen in "Normandy] vir totius regni eloquentissimus et sapientissimus, cui successit Will' filius ejus." Crawford's MS. Notes. By his wife, a daughter of the Earl of Buchan, he left two sons, William and John. Wyntoun, b. viii., ch. vi. This intimation throws a little light on the dark motive of William de Sules when he plotted against Robert Brus.

(*l*) Ford. l. x., cap. xxix.

king (*l*). He was one of the *Magnates Scotiæ*, who engaged in 1284 to support the succession of the princess Margaret to her father Alexander III. (*m*). In 1290, he was present with John Soules, his brother, in the parliament at Brigham, for betrothing the heiress of Scotland to the prince of England (*n*). Besides William and John Soules, there were Thomas de Soules of the county of Roxburgh, who swore fealty to Edward I. in 1296, and Sir Nicholas de Soules (*o*). Meantime one of the competitors for the crown in 1290, with Baliol and Bruce, was Nicholai Soules, who soon withdrew his pretensions, which could not be supported, and is perhaps the same Sir Nicholas de Soules that swore fealty to Edward in 1290 (*p*). This numerous family seems to have been all involved, finally, in the ruinous effects of that memorable competition.

Robert Avenel, an Englishman, was settled by David I. in the same vicinity with the Souleses in Upper-Eskdale (*q*). He flourished during the reigns of

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(*l*) On the 8th April, 1280, William de Soules, the *Justiciary of Lothian*, witnessed a charter of Alexander III. Orig. Writs of Sinclair of Roslin. He held this office in 1284. Char. Paisley, 106.

(*m*) Rym. Fœd., v. i., 266.

(*n*) Id., 471. In 1283 John de Soules was one of the ambassadors to France for marrying Joletta, the daughter of the Count de Droux, to Alexander III. Ford., l. x., c. xxxix. In 1294 John de Soules was sent to France to negotiate the marriage of Edward Baliol with a daughter of Charles, the French king's brother. Ib., l. xi., c. xv. In 1299 he was made, by John Baliol, custos regni Scotiæ. Ib., l. xi., c. xxxv. In 1300 Sir John de Soules commanded at the siege of Stirling Castle, which was surrendered to him by the English. In 1303 he was one of the Scottish commissioners at Paris. Rymer's Fœd., p. 929-30. He was excepted by Edward I. from the conditions of the capitulation at Strathurd the 9th February, 1304; and it was provided that he should remain in exile for two years, Ryley's Placita, 369-70. He joined Robert Brus, from whom he got a grant of the baronies of Kirkandrews and Torthorwald, and the lands of Brettalach in Dumfries-shire. Robertson's Index, p. 5, 9. In 1315 Sir John Soules went with Edward Bruce to Ireland, and with him fell in battle near Dundalk, the 5th October, 1318.

(*o*) Prynne, iii., p. 651, 661. In 1300 Thomas de Soules, knight, was taken prisoner by the English in Galloway, and Edward I. ordered an allowance of 4d. per day for his maintenance. Wardrobe Acco., p. 76. In 1306 Alicia, the widow of Thomas de Soules, did homage to Edw. I. for lands in Scotland. Rymer, ii., 1015.

(*p*) Prynne, iii., 507. His claim to the crown was thus deduced: 1. Alexander II. left a *bastard* daughter, Margery, who married Alan Durward, an active and ambitious baron, who died in 1275, leaving three daughters; 2. One of those daughters, Ermingard, married a Soules; 3. Of this marriage was Nicolai Soules, who competed for the crown. Rym. Fœd., ii., 577. The seal of this competitor has been engraved by Astle among the Scottish seals, pl. 3, No. 11. But his armorial bearings are quite different from the arms of the Liddisdale family of Soules, as set forth by Nisbet. From this circumstance there is reason to infer that the lineages were also different.

(*q*) In his charter to the monks of Melrose (Chart. No. 4), he states his grant to have been made

Malcolm IV. and William, whose charters he witnessed (*r*); and he officiated as justiciary of Lothian, for a short period, after the accession of William in 1165 (*s*). He married Sibilla, by whom he had a son, Gervase, and a daughter, whose illicit love with King William produced a daughter, Isabel, who was given by her father in marriage, to Robert Brus in 1183, and to Robert de Ros in 1191 (*t*). Robert Avenel retired from the turmoils of life into the monastery of Melrose, where he died in 1185 (*u*). Gervase succeeded his father, whose grants to the monks of Melrose he confirmed (*x*). He outlived the long life of William the Lion, and died in 1219, when he was buried with his father in Melrose Abbey (*y*). Gervase Avenel was succeeded by his son Roger, who flourished under Alexander II. (*z*). He disputed with the monks of Melrose about their several rights to their lands in Eskdale (*a*). He died in 1243, and was buried near his father in Melrose Abbey (*b*). He left an only child, who married Henry, the son of Henry de Graham of Abercorn and Dalkeith, and thereby carried the estates of the Avenels into the family of Graham. One of the Avenels, however, a younger son, perhaps Robert married Cecilia, one of the two co-heiresses of Eschina, the Lady of Moll, in Teviotdale. By Cecilia, he left a son, Gilbert Avenel, who inherited the estate of his mother, which he held in 1251, as vassal of William, the son of Eustace de Vesci, who had married a daughter of William the Lion (*c*). Gervase Avenel, who was probably a younger son of Gervase that died in 1219, possessed the manor of Dodinston in West-Lothian, during the reign of Alex-

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"pro anima domini mei regis David, qui eadem terram dedit mihi, servicio meo." He witnessed a grant of David to the monks of Dryburgh.

(*r*) Diplom. Scotiæ; Chart. Cupar, No. 1, 2; Chart. Paisley, No. 8.

(*s*) Chart. St. Andrews; Chart. Cambuskenneth, No. 105.

(*t*) Chart. Melrose, No. 94; Chron. Melrose, 175. W. Rex Scottorum filiam suam Isabel, quam genuit ex filia Roberti Avenel, Roberti de Brus honorifice dedit. Ib., 179.

(*u*) Ib., 176. To this monastery he granted a large portion of his lands in Eskdale. Chart. Melrose, 91, 95.

(*x*) Chart. Melrose, No. 92.

(*y*) Chron. Mel., 197. He witnessed many of William's Charters. Chart. Melrose, No. 4; Chart. Arbroath, No. 56; Chart. Cambuskenneth, No. 106.

(*z*) He witnessed several charters of this king. Chart. Arbroath, No. 138; Chart. Newbotle, No. 150 and No. 21.

(*a*) The king himself settled this suit in 1235, who found that the monks were entitled to the soil, but not to the game, which belonged to Avenel, the lord of the manor. Chart. Melrose, 97.

(*b*) Chron. Melrose, 207.

(*c*) Chart. Kelso, No. 162-170.

ander II. with some vassals under him of English lineage (*d*). Warin, the son of Robert English, granted to John, the son of Gervase Avenel, his lord, half a carucate of land in Dodinstun (*e*).

David de Olifard is said to have accompanied the retreat of David I. from Winchester in 1142 (*f*). David I. certainly gave the companion of his journey the manors of Smallham and Crailing in Roxburghshire (*g*). David Olifard had the honour to be the first Justiciary of Lothian of which any record appears. In this important character he appeared during the year 1165 (*h*); and he continued to act as justiciary for several years under William the Lion (*i*). When he died appears not, but he left five sons—David, William, Walter, Philip, and Fulco, who all appear in the chartularies during William's reign (*k*). David Olifard inherited the effects of his father, and he died at the end of the twelfth century, leaving two sons, Walter and David. Walter inherited the estates of his father, and acted with applause as justiciary of Lothian for more than twenty years under Alexander II. (*l*). There was not a person in Scotland during that intrigueing age, who was more trusted in public councils or in private affairs, or was more worthy of trust, than Walter

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(*d*) Sir Ja. Dalrymple says that this Avenel family possessed the lands of Cramond, a part of which they granted to the bishop of Dunkeld, and this part was afterwards called Bishop's Cramond. Col. 397.

(*e*) The grant of Warin was witnessed by G. Avenel, by G. filio suo et herede, Roberte fratre suo, by Thomas de Sumervill, Bernard de Hawden. Chart. Inchcolm, No. 9. John Avenel granted this half carucate of land to the monks of Inchcolm. Ib. No. 10.

(*f*) Dalrymple's Col., 174; Dougl. Peer., 524, who speaks of his rewards without producing any authority. David Olifard was the *godson* of David I. Olifard, who served in the army of Stephen, learning the danger of his *godfather*, after the siege of Winchester, concealed the Scottish king and went with him to Scotland. Hagustald, 271.

(*g*) After the demise of David in 1153, David de Olifard granted to the monks of Dryburgh a carucate of land in Smalham, with pasturage for 300 sheep, for the remission of his sins, "et pro animabus eorum qui illas terras mihi dederunt." Chart. Dryburgh, No. 117. This was confirmed by Malcolm IV. Ib. No. 118. David de Olifard also granted to the monks of Jedburgh the tenth of the multure of the mill of Crailing, and this was confirmed by William the Lion. Chart. Jedburgh; and the munificent Olifard gave to the house of Soltre, a thrave of corn from each plough-land in his manors of Smalham and Crailing. Chart. Soltre, No. 16, 17.

(*h*) Crawford's Peerage, 376

(*i*) Chart. Scone, No. 24.

(*k*) David Olifard and Philip Olifard witnessed, indeed, a charter of Malcolm IV. Chart. Dunfermline. William Olifard was a witness to a charter of William the Lion. Chart. Cupar, No. 35.

(*l*) He died in 1142: Ob. Dom. Gualterus Olifard Justiciarius Laudoniæ, et in capitulo de Melros sepelitur honorifice; he began to act in that distinguished character during the year 1220.

Olifard (m). He married Christian, the daughter of the Earl of Strathearn, with whom he obtained an estate in that Gaelic district. This seems to have been the first settlement of this family in Perthshire. Walter's brother, David, married Johanna the heiress of Calder, in Lanarkshire, wherein he planted the Olifards (n). This name was afterwards softened to Oliphant; and from this stock sprung the several branches of the Oliphants in Scotland. They acquired the peerage from James II. (o). There was another Olifard who settled among the Gaelic people of the Mearns during the reign of David I. He was probably a brother of the first Olifard who settled in Roxburghshire. Osbert Olifard was sheriff of the Mearns under Malcolm IV. His only daughter married Hugh, who was designed *de Aberbothenoth*, from the name of his estate, and who was the progenitor of the Viscounts of Arbuthnot, and of other respectable families of the same name, who are all descended of the blood of the Olifards (p).

The *Giffards*, as they were relations of the conqueror, were distinguished for their many possessions in England (q). Two of this race, William Giffard and Hugh Giffard, came to Scotland under David I. (r). William Giffard was probably an ecclesiastic (s). Hugh Giffard obtained a considerable grant of lands in Lothian, where he settled with his followers. He was succeeded at the commencement of the reign of William the Lion by his son Hugh, who appears to have witnessed many of the charters of King William (t). He had the honour to be one of the hostages for his captive sovereign in 1174 (u).

(m) He was one of the most frequent witnesses to the charters of Alexander II. Walter Olifard granted the church of Smailham, with its pertinents, to the monks of Coldingham. Chart. Coldingham, [illegible]; and he confirmed a grant of [illegible] of [illegible] to the same monks of two fishings in the Tweed. Id. In the Chart. of Glasgow, 171, there is a charter of Walter Olifard, [illegible] the justiciary of Lothian, which was witnessed by David Olifard, by Robert de [illegible], Robert de [illegible], [illegible] David [illegible], Osbert Magnus, Osbert [illegible], Walter [illegible]. These [illegible] show the [illegible] of this respectable family.

(n) Chart. Glasgow, 24[illegible]. (o) Dougl. Peer. [illegible].

(p) Sir G. Mackenzie's MS. Baron.; App. to Nisbet's Heraldry, [illegible]; Ib. v. i. p. [illegible]; Dougl. Peerage [illegible]. Richard de Aberbuthnot witnessed a charter with Turpin, the Bishop of Brechin, in 1178. Chart. Arbroath, No. 92.

(q) Dug. Baron. v. i. [illegible].

(r) Elias Giffard was a witness with David I. to a charter of the Empress Matilda, in 1141. Rymer's Fœd. v. i. p. 8.

(s) Brother William Giffard of the monastery of Dunfermline stands at the head of the witnesses to the charter of David I. to the monks of May. Chart. May No. 1.

(t) Diplom. Scotiæ, pl. [illegible]; Chart. Arbroath, No. [illegible]; Chart. Dunfermline, [illegible]; Hugh Giffard witnessed a charter of David [illegible] at Huntingdon. Chart. Kelso, [illegible].

(u) Rymer's Fœd. v. i. p. 40.

William not only confirmed to Hugh the lands of his father, but granted to him *Yester*, which became the seat of the family and the title of their peerage (*x*). Hugh appears to have also enjoyed the manor of Tealing in Forfarshire (*y*). He appears to have outlived William the Lion, who died in 1214, and to have been succeeded by his son William, who was also a considerable person (*z*); for he was one of the guarantees of the peace with England in 1244. He was followed by his son Hugh, who also acted a conspicuous part in the drama of those times, and died in 1267 (*a*). From this great stem, branched out several families of Giffard, in Scotland, who rose, indeed, to less eminence.

In England, there were of old, two considerable families who were named *Say*, and who derived their descent from the same Norman original (*b*). The first of this ancient race who came into Scotland, was *Seiher de Say*; and he obtained from David I. lands in East-Lothian, which, from him, were called *Say-tun;* whence his descendants obtained the surname of *Saytun* or *Seton* (*c*). Seiher was succeeded by his son Alexander, who flourished under David I. (*d*). He enjoyed the lands of Seton and Winton in East-Lothian, and Winchburgh in West-Lothian. He was succeeded at the commencement of the reign of William the Lion, by his son Philip, who obtained from him a confirmation of the lands of his father (*e*), and who died at the end of the reign of William, leaving his son Alexander. Such were the progenitors of the Setons in Scot-

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(*x*) Crawford's Peer., 502. According to an ancient tradition which came down to Fordun, the castle of Yester had been constructed by *demoniac art!*

(*y*) He granted to the priory of St. Andrews the church of *Theiling*, with the pertinents; and his grant was confirmed by William the Lion. Macfarlan's MS. Col. John Giffard, who may have been a younger son of Hugh, possessed the lands of Polgavie, in the Carse of Gowrie, at the end of William's reign. Chart. Cupar, No. 49.

(*z*) In 1200 William was sent on a mission to England. Rymer Fœd., v. i., p. 121. He witnessed several charters of William the Lion, from 1198 to 1214. Diplom. Scotiæ, pl. 28; Chart. Arbroath, 120-2; Chart. Paisley, 63.

(*a*) Ib., 559-566-7. He granted to the monks of Newbotle the lands of Cresswell, in Lothian, "per suas rectas divisas sicut Alexander *vicecomes mihi* eas perambulavit." Chart. Newbotle, No. 89. This grant was confirmed by William, the son of Hugh; and by John, the son of William. Ib., No. 90, 9.

(*b*) Dug. Bar., v. i., p. 453-510.

(*c*) Sir Rich. Maitland's MS. Hist. of this family; Nisbet's Heraldry, v. i., p. 236.

(*d*) He witnessed a charter of David I. with Andrew the bishop of Caithness, and others. Sir Ja. Dalrymple's Col., p. 4, 6; Nisbet's Herald., Ap., 304.

(*e*) This charter confirms to him Cetun, Wintun, and Winchburgh, "que fuit Alexandri de Cetun, sui patris." Charter in the family archives; Dougl. Peer., 701.

land, who acquired the Earldom of Winton in 1600 (*f*), which they forfeited by misconduct in 1715.

The origin of the Keiths as derived by the Scottish genealogists is altogether fictitious. Their real progenitor and the first of the race who settled in Scotland was Hervei, the son of Warin, who attached himself to David I. (*g*). He obtained from his munificent protector a donation of one of the manors which are called Keith in East Lothian. He did not, perhaps, survive David I., and he was succeeded by his son Hervei, who assumed the surname of Keith, and under Malcolm IV. and William held the office of Mareschal of the King. He had a long contest with the monks of Kelso about the church of Keith, which was finally settled by Joceline, the bishop of Glasgow, and Osbert the Abbot of Paisley (*h*). Hervei died a short time before the year 1196 (*i*). He had a son, Malcolm, who witnessed several charters of William at the end of the twelfth century (*k*), but died before his father Hervei. Malcolm left two sons—Philip, who succeeded as heir to his grandfather, Hervei (*l*), and David, who, as he held the office of Mareschal conjointly with his brother Philip, assumed the surname of Mareschal (*m*). Philip, by marrying the grand-daughter of Symon Fraser, acquired the other manor of Keith, and thereby consolidated the two manors of Keith-Hervei and of Keith-Symon (*n*). Philip died before the year 1220, and was succeeded by his son Hervei; while his uncle David continued his associate in the office of

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(*f*) Dougl. Peer., 706. Of this family was Seton, Earl of Dunfermline; Seton, Viscount of Kingston; Seton of Touch, Seton of Culbeg, Seton of Pitmeden, Seton of Careston, Seton of Barns, Seton of Munie, Seton of Parbroth.

(*g*) Hervei, the son of Warin, witnessed the grant of David I. to Robert de Brus of Annandale. Chart. Antiq. Bibl. Harl. He also witnessed other charters of David I.

(*h*) Chart. Kelso, No. 86, 94-5-6. Upon this settlement, which was made between 1175 and 1178, he confirmed to the monks the church of Keith. Ib., 88-9.

(*i*) He witnessed some charters of William the Lion, from 1189 to 1196. Chart. Arbroath, No. 48, 63.

(*k*) He witnessed a grant to the monks of Arbroath in 1178, wherein he is called the son of Hervei de Keith, the Mareschal. Chart. Arbroath. Doug. Peer., 449. He witnessed two other grants in 1185 and in 1190. Id.

(*l*) Philip de Keith, Mareschallus regis, witnessed a charter of William to the monks of Arbroath, between 1196 and 1198. Chart. Arbroath, No. 120.

(*m*) In 1201, Philip the Mareschal, and David the Mareschal, witnessed a charter of William the Lion. Chart. Glasgow, 49; and see Sir James Dalrymple's Col., Pref. 77, and p. 373, for Philip and David appearing together as brothers, and as joint Mareschals.

(*n*) Philip, in fact, married Eda, the daughter of Hugh Lorens, by Eda, the heiress of Symon Fraser.

Mareschal (*o*). This association of two persons of the same family in the same office, which seems to have been an anomaly, gave rise as we shall see to future disputes. Hervei the son of Philip, and the great grandson of Symon Fraser, confirmed to the monks of Kelso the church of Keith with its pertinents and some rights in Keith-Symon, the donation of his great grandfather (*p*). Hervei died soon after the year 1242, certainly before the year 1250, when his son, John *Mareschallus* de Keth, was in possession both of his estate and office (*q*). John lived and died, though with little notice, under Alexander III. By whatever wife, John de Keth left two sons—William who became his heir, and Adam, who was rector of the church of Keth-Mareschal (*r*). William de Keth appears not in history, and little in the chartularies (*s*). A cloud seems to obscure this family throughout the busy and important reign of Alexander III. At the eventful demise of this lamented prince, not one of this family appears among the *magnates Scotiæ.* William de Keth is said to have married Barbara, a daughter of Adam de Seton, the ancestor of the Earl of Winton (*t*). This lady, who was of a gallant race, seems to have infused a new spirit into the blood of the Keiths. By William, her husband, who died before the year 1290, she produced Robert de Keth, Richard de Keth, and Philip de Keth, who became rector of Biggar in Lanark-

(*o*) David *Mareschallus,* and Hervei *Mareschallus,* appear together, acting in their office at York on the 15th of June, 1220, when Alexander II. married Joan, the Princess of England. Rymer's Fœd., v. i., 241. About the year 1226, they together witnessed a charter of Alexander II. to the monks of Melrose. Astle's MS. *Diplom. Scotiæ,* No. 6.

(*p*) Chart. Kelso, No. 86-88. Hervei, the Mareschal, appears in a charter to the monastery of Coldingham, as we see in its chartulary; and he also witnessed a charter to the monks of Arbroath in 1226. Macfarlan's MS. Col.

(*q*) Before his succesion, John appeared about the year 1242, as a witness to a grant of Vivian Muleneys to the Hospital of Soltre. Chart. Soltre, No. 11. John confirmed to the monks of Kelso the grants of his predecessors, with the addition of some lands within the manor of Keith. Chart. Kelso, No. 87. He also confirmed to the Hospital of Soltre, some lands in the district of Joneston, near Keith, which had been granted to them by his great great-grandfather, Symon Fraser; and he also confirmed to them some tofts near the lands of Soltre. Chart. Soltre, No. 26.

(*r*) Ib. No. 37. Dougl. Peer., 449. The adjunct *Hervei,* which had long distinguished this place from Keth-Symons, was at length supplanted by the adjunct *Mareschal,* which it still retains.

(*s*) Douglas has found William a witness to a charter of Malcolm, Earl of Lennox, to the monks of Paisley, about the year 1270. He is called William de Keth, but not *Mareschal.*

(*t*) Douglas Peer., 450, who quotes a MS. history of the family.

shire (*u*). Robert de Keth first appears in 1294, under John Baliol, from whom he obtained a confirmation of the lands of his family (*v*). Robert de Keth seems to have been admirably qualified for the bloody and changeful scenes of that age. As a statesman he was supple, as a soldier strenuous, and in his old age, with his sword in his hand, he died at the battle of Duplin in 1332. He was the second founder of his family, which he planted in the northern shires under Robert Bruce (*w*). II. It is now time to advert to the second branch of this stock, which early adopted the surname of Marshal, from the office (*x*). David, who, as we have seen, was the second son of Malcolm de Keth, was associated with his elder brother Philip and with his nephew Hervei in the office of Mareschal of Scotland (*y*). He lived long,

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(*u*) Robert de Keth renovated the family under the gallant Bruce, by his talents as a statesman and soldier. Sir Richard de Keith, who appears in the chartulary of Soltre, No. 37, was the progenitor of the Keiths of Galston, in Ayrshire, says Dougl. Peer., 450, from the MS. history of the family, and was the father of Sir William Keith of Galston, who distinguished himself as a warrior among the many warriors of Robert Bruce's reign, and who fell fighting for his country.

(*v*) Sir James Dalrymple says, "I have seen a copy of a charter in the hands of the Earl "Marischal, by King John, the second of his reign, to Robert de Keith, *Mariscallo nostro*," to hold the lands of Keith, &c., Hist. Col. Pref., lxxxvi. This charter evinces that Robert de Keth was now the King's Marischal and was the heir of the Keiths. Robert de Keith, *Mariscallus Scotiæ*, granted to the monks of Kelso a right to build a mill on his lands of Hundeby-Keth. Chart. Kelso, No. 99.

(*w*) In 1300, he was a prisoner in Cumberland. Wardrobe Account of Ed. I., p. 76. In 1305, he was one of the Commissioners who were chosen by the Scottish people for the settlement of their government; and upon this settlement, he was appointed one of the Justiciaries for the country from the Forth to the Mount. Ryley's Placita, 503-4. On the 26th of October, 1305, he was one of the guardians of Scotland. Rym. Fœd., ii., p. 970. He joined Robert Bruce when he became king, who confirmed his office of Mareschal, and gave him many lands. Robertson's Index, p. 1-11-16. Robert de Keth was continued Justiciary on the north of the Forth. Chart. Lindores, No. 10. He appears to have witnessed many grants of Robert Bruce, as we know from the chartularies.

(*x*) There were two persons who were designed *Marescallus* under David I. Sir Ja. Dal. Col., 388-393; MS. Monast. Scotiæ, 104-5; Dug. Monast. Ang., ii., p. 1054; but whether this *term* applied to the office or as a surname is uncertain. The same confusion occurred in England at the same period. Madox Excheq., v. i., 43-48. This name of *Marshal* became very common before the end of the thirteenth century. See Ragman's Roll in 3 Prynne.

(*y*) David appears as an associate with Philip in this office as early as 1201. In this situation we have seen him with Hervie in 1220, at the marriage of Alexander II. Rymer, v. i., 241. As *Marescallus*, he was a witness to many grants of William, from 1200 to 1214, as we see in the chartularies. David also, as Mareschal, witnessed many charters of Alexander II. As Mareschal, David was present when the peace was made at York, in 1237, Ib., 376.

yet he must have died before the year 1240 (*z*). He left a son, who is involved in the same cloud which obscures the Keiths under Alexander III. He appears, however, to have attended that king to Inverness in 1271 (*a*). He probably died soon after. He certainly does not appear among the *magnates Scotiæ*, who engaged in 1284 to maintain the right of the princess Margaret to the crown (*b*); but, David *le Mareshal* appeared among the barons in the numerous Parliament at Brigham in March 1290 (*c*). After Edward I. had overpowered Baliol, and acquired the direct sovereignty of Scotland in 1296, David the Mareschal presented a petition to the king in parliament, stating his right to this office, from his ancestors by descent, and praying that no person might be preferred to him without the judgment of his peers (*d*). His claim was probably allowed. When David died is uncertain; but his son Richard, fighting against the English in 1296, was taken prisoner and carried into England (*e*). Yet this family, taking part against Bruce, appears to have been involved in forfeiture and ruin during the succession war (*f*).

There was another family which held a still greater office in Scotland, as it was connected with greater property. It was the de Quincies, whose progenitors came into this country under William the Lion. The first of this

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(*z*) David was the progenitor of many Marshals, but not of all the Marshals who appear in the chartularies in the subsequent age to his own.

(*a*) See the charter of Inverness, in Wight on Elections, Ap. p. 412.

(*b*) Rymer's Fœd., v. i., 266.

(*c*) Ib., 471.

(*d*) Rolls of Parliament, v. i., p. 469. Edward I. referred the petition of David to his *Locum tenens* in Scotland, to inquire whether the Marshalship belonged to David in heritage. Id. The allusion of David's petition was plainly to Robert de Keth, who had been recognised by John Baliol, in 1294, as his Mareschal.

(*e*) On the 4th of September, 1296, Edward I. ordered his Lieutenant in Scotland to assign ten merks of land of legal extent to Agnes, the wife of Richard, the son of David the Marescal, then a prisoner in England. Rymer's Fœd., ii., 728. Richard, after his release, presented a petition to Edward, stating that he was the son and heir of David the Mareschal, who had assigned him 40 pounds of land for the support of him and his family, and praying that the King would confirm it. Edward granted his request. Rolls Parl., v. i., p. 474.

(*f*) David le Mareschal of Dumfries-shire swore fealty to Edward I. in August, 1296, 3 Prynne, 654. David Marshal, Knight, forfeited the lands of Corstorphin, in Mid-Lothian, which were given to Malcolm Ramsay, and the lands of Danielston, in Renfrew, which were granted to Thomas Carno. Robertson's Index, 59. There was a John le Marshal of Toskerton, in Wigtonshire, who also swore fealty to Edward I., and whose lands were granted by Robert Bruce to William Hurchurche. Ib., 13. There were upwards of twenty persons of the name of *Mareschal* who swore fealty to Edward I. in 1296; and but one person of the name of Keth, who was Alexander de Keth, the parson of Hoddom, in Dumfries-shire. Prynne, iii. 356; and see the same from 354 to 362, for the Marshals.

family who settled in Scotland was Robert de Quinci, a Northamptonshire baron, who appears to have attached himself to William the Lion, if not to his predecessor, Malcolm IV. (*g*). From William he acquired the extensive manor of Travernent in East Lothian, out of which he made a liberal donation of lands to the monks of Newbotle (*h*). William also made him Justiciary of Lothian, which he did not enjoy long (*i*). Robert de Quinci married Arabella, the daughter of Nes, the son of William, by whom, on her father's death, he obtained the valuable manor of Leuchars and other lands in Fife, with the estate of Duglyn among the Ochil hills (*k*). Robert de Quinci died about the year 1190, and was succeeded in his Scottish estates by his son, Seyer de Quinci, who confirmed his father's grant to the monks of Newbotle, to which he made some additions; and he also showed his liberality by several grants from his estates in Fife to the monks of St. Andrew's and Cambuskenneth (*l*). Seyer de Quinci, who became Earl of Winchester about the year 1210, took an active lead among the English barons who opposed King John (*n*). He could flatter as well as oppose such a king (*o*). His

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(*g*) He was a witness to some of the charters of Malcolm. Chart. in Bibl. Harl. He witnessed many charters of William before 1190. Chart. Glasg., 23; Chart. Kelso, 143, 402, 406.

(*h*) The manor of Travernent [Tranent], extended at that epoch all the way to the boundaries of Pinkie and Inveresk. To the monks of Newbotle Robert de Quinci granted the Grange of Preston in this manor, as he had perambulated the same in the presence of several honest men, and with it pasture, in his manor of Travernent, for 700 sheep and for oxen, sufficient to labour the Grange; and six acres in his meadow of Travernent, with 20 carriage loads of peats from his peatery, with other easements. Chart. Newbotle, 71.

(*i*) Chart. Kelso, 385; Chart. Paisley, 32; Robertson's Ind., p. 79.

(*k*) Nes, the son of William, lived in the reigns of Malcolm IV. and his successor William. He witnessed a charter of Malcolm to the monks of Scone. Chart. Scone; Doug. MS. notes. He witnessed a grant of William to the monks of Cupar. Chart. Cupar, No. 5. Nes had the honour to be one of the hostages for William, when he was freed from his captivity in 1174. Rymer's Fœd., v. i., 40.

(*l*) Chart. Newbotle, No. 72. He further granted to this monastery the half of a marsh near the Grange of Preston, also a colliery and a quarry on the rivulet of Whiterig, near the same Grange. *Simon de Quinci* witnessed this grant, which was confirmed by King William. Chart. Newbotle, 73-4. Seyer de Quinci made some grants from his manor of Leuchars to the monks of St. Andrews; and in his charters he mentions his father, Robert de Quinci, and his *mother Arabella, the daughter and heiress of Nes, the son of William*. Chart. St. Andrews; Crawford's MS. notes. To the monks of Cambuskenneth he granted all the lands of Duglyn, by the same boundaries as they had been held by his *grandfather Nes, the son of William*; and this was confirmed by King William. Chart. Cambuskenneth, No. 75-6-7.

(*n*) See a full account of Seyer de Quinci in Dugdale's Baron., v. i., 686.

(*o*) For livery of a part of the suburbs of Leicester, Seyer gave John three excellent coursers. Ib., 687. He afterwards gave the King another courser, called *Liard*, with a good *pied brache*. Id. from the Pipe Roll.

principal castle in Scotland seems to have been at Leuchars in Fife, where he held his baronial court (*p*). Seyer married Margaret, one of the coheiresses of Robert the Earl of Leicester, by whom, when he died in 1219, he left as heir of his earldom and of his estates in Scotland Roger de Quinci (*q*). This great baron obtained a large addition to his property in Scotland by marrying Elena, the eldest daughter of Alan, the lord of Galloway, who died in 1234 (*r*). On this event Roger not only shared the extensive estates which had come down from the Morevilles to Alan, but acquired in right of his wife the high office of Constable of Scotland, which had also descended from them by a *female* heir, Elena, the sister of William, the last of the Morevilles. After all those accessions of property and of power, Roger de Quinci became still more liberal to various monasteries (*s*). But the Gaelic people of Galloway were not much pleased with his principles of feudism or his practice of colonization, and in 1247 they besieged him in his castle, whence they obliged him to flee. Roger de Quinci died on the 21st of April 1264 (*t*); and by Elena, the daughter of Alan, the lord of Galloway, he left three daughters—Margaret, who married William, Earl of Derby; Elizabeth, who married Alexander Cumyn, the Earl of Buchan; and Elena, who married Alan la Zouche. These ladies shared their father's vast estates in Scotland.

(*p*) Having a dispute with Duncan the son of Hamelin, about the lands of Duglyn, he brought Duncan to acknowledge a release of his claims in his court, "in plena curia mea apud Loeres." Ib. No. 78.

(*q*) Seyer had an older son, Robert, whom he mentions as his son and heir in a charter to the monks of Cambuskenneth. Chart. Cambuskenneth, 78. This son, as Dugdale states (Baron i., 688), was, at the time of his father's death, in the Holy Land, from whence he does not appear to have ever returned. Roger de Quinci confirmed the grants of his father, in his manor of Tranent, to the monks of Newbotle. Chart. Newbottle, No. 75. He granted to the monks of Balmerinach, a peatery in his moss of Swanismire in Fife. Chart. Balmer. No. 38; and to the monks of Lindores, he granted 200 cart loads of heather yearly, from his moor of Kindeloch, and peats from his peatery called Monegie, with some lands adjacent to Monegie, with common of pasturage on his moor of Kindeloch. Chart. Lindores, 19.

(*r*) Besides Elena, the daughter of his first wife, Alan left by his second wife, Margaret, the eldest daughter of David, the brother of King William, Christian, who married William de Fortibus, the son of the Earl of Albemarle; and Dervorgilla, who married John Baliol, of Castle Bernard, by whom she had John Baliol, the competitor for the crown.

(*s*) Chart. Dryburgh, 44. He granted to the monks of Scone the land which William de Len had held in Perth, and which *belonged to the Constabulary of* Scotland, with the *Stone* house in Perth, and the *garden* without the walls that belonged to the same house. Chart. Scone, No. 57-66.

(*t*) The seal of this opulent baron was engraved by Astle, pl. iii., No. 3. The legend on the reverse is, "Sigill. Rogeri de Quinci Constabularij Scotiæ."

His office of Constable came to Alexander the Earl of Buchan, by the resignation of Margaret, the Countess of Derby, who, as the eldest sister, inherited this great office (*a*); but this office and those estates all became forfeited during the sad events of the succession war (*x*).

Before the middle of the twelfth century a person of Anglo-Norman lineage, who was called *Male*, settled under David I. on some lands in Mid-Lothian, which he obtained from that beneficent prince. *Male* and *Maule* were probably of the same race. *Male*, who obtained the lands in Lothian, called the place where he settled *Male-ville*, and from this local appellation his family were distinguished by the surname of *Male-ville*. Galfrid de *Male-ville* possessed those lands under Malcolm IV., who demised in 1165, and under William his successor (*y*). Galfrid de Maleville was *Vicecomes* de *Castella Puellarum* for Malcolm IV. (*z*). Galfrid de Male-ville had the honour, as he thus flourished at the demise of Malcolm IV., to be the *first Justiciary* of proper Scotland who appears in record (*a*). Such was the progenitor of the *Male-villes* in Scotland, though his descendants have not been very accurately stated by the genealogists (*b*). A younger son of Galfrid settled in the Mearns, as he married Eva, the daughter of Walter, the son of Sybald; and obtained with her the lands of Monethyn, on the Bervie river (*c*). Philip, the

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(*u*) This office was resigned by Margaret after the death of her husband, though she had a son to the Scottish King, who immediately conferred it on the Earl of Buchan, the husband of the second daughter of the late Constable.

(*x*) See the Appendix, No. 6, to the Fragments of Scottish History, a Catalogue of all the great Constables of Scotland, by Sir James Balfour, who has outdone himself in the absurdity of his conceits about the de Quincies and the office of Constable.

(*y*) Chart. of St. Andrews. He granted to the monks of Dumfermline the *church of Maleville* with its pertinents. Chart. Dunfermline.

(*z*) Chart. Newbotle, No. 159-175. Ranulph de Sules, the *Pincerna* of William, granted a carucate of land in his lordship of Gilmoreston, as laid off by the measurement of Galfrid de Maleville and other worthy men. Ib. 45. King William granted some lands near Crail, in Fife, as they had been perambulated by Galfrid de Maleville and others. Astle's MS. Diplom. Scotiæ, No. 4.

(*a*) Chart. Glasgow, 25; Fragments of Scot. Hist. 45.

(*b*) Galfrid was the progenitor of the Earls of Melville. Crawfurd's Peerage, 323; Doug. Peer. 469; of the Melvilles of Strathkinnes and Craigtown. Dougl. Bar. 52; of the Melville's of Raith, of Dysart, of Cairnbee, of Glenbervie, &c. Nisbet's Heraldry, Ap. 30; Dalrymple's Col., 428-9. For correcting the inaccuracies fo the genealogists, see Chart. Newbotle, No. 215-240-1-223.

(*c*) Chart. Arbroath, 130-131. Out of those lands they gave a donation to the monks of Arbroath, which was confirmed by King William. Id.

son of Philip, and the grandson of Galfrid, was Sheriff of Aberdeen in 1222 (*d*). He was afterwards the Sheriff of the Mearns, and he rose to be joint Justiciary of proper Scotland with Richard de Montealte in 1241 (*e*). Such was the respectable progenitor of the Melvilles of the Mearns. One of the Melvilles, by obtaining the lands of *Kilblathmont* became an inhabitant of Forfarshire (*f*). Richard de Melville was a witness, in 1178, with William the Lion, and Turpin the bishop of Brechin, to a charter of John the Abbot of Kelso to the monks of Arbroath (*g*). Richard de Melville thus flourished in Forfarshire during the reign of William the Lion. There was a Malcolm de Melville who lived in Fife with Malcolm the Earl at the demise of William the Lion (*h*).

The family of the *Maules* derive their ancient origin from a person of this distinguished name, called Guarin de Maule, who came from Normandy with the Conqueror; settled in Cleveland, and died about the accession of Henry I. in 1100, leaving two sons the heirs of his adventure. Robert attached himself to Earl David, came into Scotland with him, and obtained from David the bountiful a grant of lands in Lothian (*i*). Robert died about the year 1130, leaving several sons—William, Roger, and Randulph; and he was probably the father of the Maule who settled at *Maleville* in Lothian, as we have seen. William adhering to David I., attended him to the Battle of the Standard in 1138, and obtained from him the manor of Foulis in Perthshire (*k*). The younger sons of Robert de Maule appear to have shared his lands in Lothian. Randulph Maule de Lochogow on the Esk, in Lothian, which he probably held as a vassal of the Morevilles, granted to the

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(*d*) Robertson's Index, liii.; Chart. Arbroath, No. 10.

(*e*) Chart. Glasgow, 271; Chart. Cupar, No. 43. He witnessed several charters of Alexander II. Chart. Arbroath, No. 153, 161. He witnessed many charters of the inhabitants in the Mearns. Ib., No. 20; App. to Nisbet's Heraldry, 243.

(*f*) Richard de Melville granted to the monks of Arbroath, and to the chapel of Kilblathmont, ten acres *in campo* de Kilblathmont, and half an acre in the village, with the chapel tost in pure alms. Chart. Arbroath, No. 175.

(*g*) Chart. Arbroath, No. 32.

(*h*) Chart. Moray, p. 103.

(*i*) Holinshed, ii., p. 296; Dougl. Peer., 540.

(*k*) William Masculus is a witness to a grant of Earl Henry to the priory of St. Andrews. Chart. St. Andrews; Chart. Glasgow, p. 267. William de Maule, or *Masculus* (as the name was then written in charters), granted to the Priory of St. Andrews the chapel of Foulis, with the pertinents. Crawfurd's MS. notes from the Chart. St. Andrews. William Masculus of Foulis gave to Thomas Clericus, "*nepote meo*," the church of Foulis, in pure alms. Michael Masculus, and Richard, his *nepos*, are among the witnesses of his donation. Id.

monks of Newbotle a portion of the same estate *(l)*. It was Roger, the second son of Robert, who was destined to be the progenitor of the family of Maule (*m*). His grandson Peter, by his eldest son Richard, married about the year 1224, Christian, the heiress of William de Valoniis, the lord of Panmure, and Chamberlain of Scotland under Alexander II.; and from this marriage sprung the family of Maule, who became Earls of Panmure (*n*). There was another race of the Maules who settled on the border with their followers, and who contributed to swell the population of that important district (*o*).

Of the Anglo-Norman family of Valoniis, two of the younger sons, Philip and Roger, settled in Scotland at the end of Malcolm IV.'s reign (*p*). From William the Lion Philip obtained the manors of Panmure and Benvie in Forfarshire *(q)*. He appears to have been the frequent attendant on William, who gave him the office of Chamberlain (*r*). He was one of the hostages for the Scottish King, when he obtained his freedom in 1174 (*s*). In 1208 he accompanied the Bishops of St. Andrews and Glasgow with William Cumyn, the Justiciary of Scotland, into England, on an embassage to King John (*t*). After the death of William, in 1214, Philip de Valoniis was continued Chamberlain by Alexander II. *(u)*. He died, aged, in 1215, and was buried in Melrose Abbey (*v*). He left a son and two daughters (*w*). He was succeeded

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(*l*) Chart. Newbotle, No. 39. This grant was confirmed by his grandson, Thomas Maule of Lochogow. Ib., 41.

(*m*) Roger witnessed many charters during the reign of William. Chart. Glasgow, 163; Dougl. Peer., 541.

(*n*) Dougl. Peer., 541.

(*o*) In the Chart. of Kelso, No. 54, there is a charter of William Masculus, confirming the renunciation of *seven* of *his vassals* to the monks, of fishings in the Tweed; and he conferred on the monks of the same house the free use of his slate quarry on his lands of *Twedemow*.

(*p*) In several charters of King William, wherein they both appear as witnesses, Roger is mentioned as the younger brother of Philip de Valoniis. Chart. Arbroath; Chart. Antiq. Bibl. Harl.

(*q*) App. to Crawfurd's Officers of State, 468.

(*r*) Chart. Arbroath, No. 55; Chart. Glasgow. p. 23; Chart. Kelso, 388. Philip de Valoniis gave to the monks of Cupar an acre of land, at his port of *Stinchindehaven*, for building, with a fishing, and other easements of the sea to a port belonging. Chart. Cupar. This donation was confirmed by Thomas de Maule of Panmure, in 1456. Craufurd's Officers of State, 466. There are two havens in Panmure barony, Westhaven and Easthaven, where there are fishing villages to this day. From this transaction we may see how the havens on that shore became peopled with Englishmen.

(*s*) Rymer's Fœd., v. i., 40.

(*t*) Fordun, l. viii., c. 70.

(*u*) Ib., l. ix., c. 27.

(*v*) An., 1215. Ob. Philippus de Valoniis Camerarius Dom. Willielmi regis, qui apud Melros delatos, in capitulo honorifice est tumulatus. Chron. Mel., 190. To the monks of this house he had confirmed the lands of Ringwode, in Roxburghshire, which had been granted them by Osulph, the son of Uchtred. Chart. Melrose, No. 90.

(*w*) Crawfurd's Officers of State, 257-8; Doug. Peer., 538.

both in his estates and in his offices, by his son William, who obtained from William the Lion, during his father's life, a confirmation of the manors of Benvie and Panmure (*x*). Of that King's charters William de Valoniis was a frequent witness; and as Chamberlain he witnessed some charters of Alexander II. before he died, in 1219 (*y*). He left an only child, Christian, who by marrying, as we have seen, Peter Maule, carried her heritage and her blood into a new family (*z*). II. Roger de Valoniis, the younger brother of Philip, came with him into Scotland, and equally became a favourite of William the Lion (*a*). From this King he obtained the manor of Kilbride, in Clydesdale, with other lands in the west of Scotland, where he had his castle (*b*). With Joceline, the Bishop of Glasgow from 1175 to 1199, Roger had a law-suit about the church of Kilbride, with its pertinents, which was settled at Lanark by an agreement in the King's presence (*c*). When he died is uncertain; but he undoubtedly left a daughter, Isabella, who married David Cumyn, who flourished under Alexander II., as we know from the chartularies (*d*). David Cumyn was one of the *magnates Scotiæ*, who engaged to maintain the peace with England in 1237 (*e*). He performed an act of beneficence to the monks of Newbotle in 1245 (*a*); but he certainly died before the year 1250, when his widow granted her forest of Dalkarn to the church of Glasgow (*b*). She died before the year 1261; and by David Cumyn, for whose soul she was careful, she had a son William, who flourished

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(*x*) Officers of State, 468. This confirmation of his father's lands, which he had obtained from the same king, must have been made between the years 1196 and 1200.

(*y*) Chart. of Scone; Chart. of Arbroath; "An. 1219; ob. Wil. de Valoniis ap Kelchou, "cujus corpus etiam, contra bene placitum Monachorum ejusdem domus, apud Melros deductum "est, et ibidem honorifice sepultum, in capitulo monachorum, juxta sepulchrum patris sui." Chron. Mel. 197.

(*z*) Crawf. Off. of State, Ap., 468-470.

(*a*) Both Philip and Roger witnessed many charters of that King, as we know from the Chartularies. From this circumstance we may infer that they were his daily courtiers.

(*b*) Chart. Glasg., 39-41.

(*c*) Ib. 39. William confirmed this agreement by a charter, to which Philip, the brother of Roger, is one of the witnesses. Ib. 40. Roger granted an annuity to the monks of Paisley out of his lands of Kilbride. Chart. Paisley. He left a bastard son called William de Valoniis, who witnessed a charter of his sister Isabel, lady of Kilbride, before the year 1250. Chart. Glasg., 259.

(*d*) Chart. Cambusken. No. 138; Chart. Soltre, No. 7; Chart. Cupar, No. 19.

(*e*) 1 Rym. Fœd. 376.

(*a*) Chart. Newbotle, No. 192.

(*b*) Chart. Glasgow, 259. This grant was made for the safety of the souls of her parents, and of her husband David Cumyn, who was then dead. It was confirmed in 1250. Ib. 261.

under Alexander III., as we may see in the chartularies (*i*). He probably died soon after the year 1280; he was not among the *Magnates Scotiæ*, in February 1284 (*c*); and he did not appear in the numerous parliament of Brigham, in March 1290 (*d*). William Cumyn of Kilbride was succeeded by John Cumyn, who was destined to struggle through the subsequent scenes of intrigue and warfare. John Cumyn of Kilbride was taken prisoner by the English in 1296 (*e*). He was succeeded in Kilbride not long after by Edward Cumyn, who was immediately involved in the same struggles and misfortunes (*f*). Yet Edmund Cumyn of Kilbride fought, with the other Cumyns, against Bruce, in favour of Baliol and Edward I., till he lost his estate and life (*g*). So terrible to many respectable families were the effects of the long contest for the bloody crown of the Scottish kings!

The Berkeleys settled in Scotland during the twelfth century; and they were a branch of the great family of *Berkeley* in Gloucestershire (*a*). Robert de Berkeley obtained the manor of Mackiston about the middle of the twelfth century, by marrying Cecilia, who enjoyed it as the heiress (*b*). They appear to have been succeeded in the manor of Mackiston, before the year 1200, by Hugh de Normanville, and Alicia his wife, who was doubtless the heiress

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(*i*) On Whitsun-Monday, 1261, William Cumyn of Kilbride appeared in court at Jedburgh, before the king himself, and resigned to the bishop of Glasgow the lands of Sleindaff in the forest of Dalkarn. Chart. Glasgow, 241. See the Chart. of Soltre, No. 8; of Kelso, No. 184; of Arbroath, No. 12; of Glasgow, 443; of Paisley, No. 110, 115, 118; for notices of William Cumyn of Kilbride, from 1261 to 1280.

(*c*) Rymer's Fœd., v. ii., p. 266.

(*d*) Ib. 471.

(*e*) He was liberated on the 9th of August, 1297, on his swearing at Brede that he would serve the English king in France or elsewhere, on pain of forfeiting his body and goods. Rymer's Fœd., ii., 782.

(*f*) Mons. Edmund Cumyn of Kilbride submitted with John Cumyn, the guardian, by the capitulation of Strathurd on the 9th of February, 1304. Ryley's Placita, 369. On the 15th October, 1305, Edmund Cumyn, with all those who submitted at Strathurd, was fined three years rent of his estate by Edward I. Rymer's Fœd., ii., 969.

(*g*) Robert Bruce granted the barony of Kilbride to Walter Stewart, who had married his daughter Margery. Robertson's Index, p. 9. But the same king, with a mitigated spirit, granted to Mary Cumyn, the spouse of *Edmund* Cumyn, the lands of Gillennachis and Sauchope, with the mill in the thanage of Formartin, Aberdeenshire. Ib., p. 2.

(*a*) Dug. Baron., v. i., p. 349.

(*b*) Robert and Cecilia, his spouse, granted to the monks of Melrose a carucate of land in the territory of Mackiston, with common of pasturage and other easements; they speak of David I., and Malcolm, their late lords, and of their Lord William, and David, his brother. Chart. Melrose, No. 27.

of Robert and Cecilia (*c*). Walter de Berkeley, who was doubtless the brother of Robert, was appointed chamberlain of Scotland in 1165, when Nicolas, his predecessor, was made chancellor (*d*). Walter obtained from king William a grant of the extensive manor of Inverkeilor in Forfarshire, whereon he built Red-Castle, on an eminence near the mouth of Lunan-water; and he was from it sometimes called the lord of Red-Castle. He granted the church of Inverkeilor, with other privileges, to the monks of Arbroath (*e*). He had the honour to be one of the hostages for enforcing the treaty which restored his master William to his people (*f*). Walter held some lands in Galloway under Roland, the son of Uchtred. He granted those lands to the monks of Holm-Cultrum, which grant was confirmed by Roland, the Lord of Galloway (*g*). When Walter died is uncertain; he was alive at the end of the twelfth, and died at the beginning of the thirteenth century, as we may learn from the chartularies. He left an heiress, who married Ingelram de Baliol, who was the first of this family that settled in Scotland (*h*). Another branch of the Berkeleys took root in the Mearns during the twelfth century, and became the progenitors of Barclay of Mathers, of Barclay of Urie, and of other families in those northern districts. Humphry de Berkeley, who obtained estates in the Mearns from William the Lion, was probably a brother of Walter the chamberlain (*i*). He married Agatha, who witnessed one of his charters. Humphry granted Balfech to the monks of Arbroath (*k*). He probably

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(*c*) Ib., 29, 30. Robert de Berkeley was a witness to many grants of William the Lion, as we may see in the chartularies.

(*d*) Craw. Off. of State, p. 253. Robert and Walter de Berkeley, appear as witnesses together in many charters. Chart. Arbroath, No. 84-86; Chart. Glasgow, 25-218; Chart. Cupar, No. 35-39; MS. Monast. Scotiæ, 108. Robert witnessed the charters of Walter de Berkeley. Chart. Arbroath, No. 83-85. There is a charter of Walter de Berkeley, the chamberlain, with his very curious seal appendant in the Diplom. Scotiæ, pl. 77. It was witnessed by William de Moreville, the constable, who died in 1196.

(*e*) Chart. Arbroath, No. 83-4, 85-86.

(*f*) Rymer's Fœd., v. i., p. 40.

(*g*) Dug. Monast., vol. v., p. 286.

(*h*) Off. of State, 253; Ruddiman's Index to the Diplom. Scotiæ. Nisbet pretends that he left two daughters, but this loose intimation is contradicted by charters, which evince that Ingelram de Baliol was the only person who was called upon to confirm the grants of Walter de Berkeley. Chart. Arbroath, No. 87. Monast. Angl., v., p. 286.

(*i*) Chart. Arbroath, No. 27. Humphry de Berkeley witnessed two charters of Gilchrist, Earl of Angus. Ib. No. 68-74. App. to Nisbet's Heraldry, 246. From William, Humphrey obtained the manor of Conveth, which is now called Laurencekirk, Monbodach, Balfech, Culbach, Kinkell, Glenferchar, and other lands in Fordun parish.

(*k*) Chart. Arbroath, No. 124; as the same had been perambulated by Mathew the bishop of did not survive his master William, who demised in 1214; and he left the greatest part of his lands to his heiress, Richenda, who married Warnebald, the ancestor of the Earls of Glencairn. As they had no issue they granted their estates in the Mearns to the monks of Arbroath, which were confirmed by Alexander II. (*l*). She outlived her husband, and during her widowhood confirmed her grant to the monks of Arbroath (*c*). There was one John Berkeley, whether a nephew or a bastard son of Humphry, who enjoyed a part of his estate, though Richenda was his heiress, and seems thus to have been looked at with envious eyes by Richenda and Warnebald, when they gave such estates to the monks. John de Berkeley disputed with those favourite monks about some of those lands soon after the death of his father. This controversy was ended by an agreement, which was assented to by his son Robert de Berkeley, and was confirmed by Alexander II. about the year 1225 (*m*). John de Berkeley had some connection with Roger, the bishop of St. Andrews, who died in 1202, and whose charters he often witnessed (*n*). The Berkeleys enjoyed other high offices besides that of chamberlain. Walter de Berkeley acted as justiciary under William the Lion. Hugh de Berkeley was justiciary of Lothian between 1202 and 1214, the last twelve years of William (*o*). Another Hugh de Berkeley was justiciary of Lothian under Alexander III. (*p*). The brothers Hugh de Berkeley and Walter de Berkeley were among the *Magnates Scotiæ* who entered into a treaty with the Welsh in 1258 (*q*). Sir David Berkeley obtained the lordship of Brechin by marrying Margaret, the heiress, at the beginning of the fourteenth century. This estate went afterwards to the Maules by another female heir of the Berkeleys (*r*).

The progenitor of the Anglo-Norman family of the Normanvilles came from England into Scotland during the twelfth century (*s*). The place where they first settled cannot now be easily ascertained. Before the year 1200 Hugh de

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Aberdeen, and Gilbert the Earl of Strathearn, "Secundum assisam regni." This grant was confirmed by K. William. Ib. No. 125. Humphry was himself a perambulator of lands under the assize of the kingdom. Ib., p. 4.

(*l*) Chart. Arbroath, No. 20 and No. 21; this confirmation of Alexander was dated the 20th of March, 1243.

(*c*) Ib. No. 22. Her grant was confirmed by Alexander, 7th March, 1246.

(*m*) Chart. of Arbroath.

(*n*) Id.

(*o*) Chart. Newbotle; Fragments of Scotish History, 45.

(*p*) Diplom. Scotiæ, 36; Chart. Soltre, No. 9; Chart. Kelso, No. 395. These charters show that Hugh was justiciary of Lothian in 1265, 1266, and 1267.

(*q*) Rymer's Fœd., v. i., p. 653

(*r*) Dougl. Peerage, 87.

(*s*) We may see several of the English Normanville's in Rymer's Fœdera, v. i., and in Dugdale's Monasticon.

Normanville and Alicia his wife were in possession of the manor of Mackiston, which had previously belonged to Robert de Berkeley as we have seen. Alicia was doubtless the daughter of Robert de Berkeley, and by her marriage transferred the possession of Mackiston to her husband. In 1200, Hugh de Normanville and Alicia his wife gave to the monks of Melrose the lands of Kelvessete and Fawlawe, in exchange for the land which Robert de Berkeley and Cecilia his wife granted to the same monks in the manor of Mackiston (*t*). Hugh de Normanville had four sons—John, Walran, Guydo, and Thomas. John, as heir, inherited the manor of Mackiston. Before the year 1232 he confirmed to the monks of Melrose all the lands, common of pasturage, and other easements, which they claimed within the manor of Mackiston under his father Hugh (*u*). He granted to his brother, Walran, a carucate of land in Mackiston (*x*). Walran conveyed this carucate of land to his brother Guydo (*y*); and he transferred it to his brother Thomas, in exchange for the lands which he had obtained from the gift of Matildis, the Countess of Angus (*z*). Thomas de Normanville was one of the Scottish party who acted with the Cumyns, and was removed from the councils of Alexander III. in 1255 by the influence of the English king (*a*).

A cadet of the English family of Montealt, who derived this name from a place in Flintshire, came into Scotland during the twelfth century (*b*). Robert de Montealt is a witness to some of the charters of David I. (*c*). This family obtained from William the Lion a grant of the manor of Fern in Forfarshire. Robert de Montealt, knight, gave to the monks of Cupar a stone of wax and four shillings of money to be annually received from the rents of his lands of Fern (*d*). This family appears to have had other lands in Forfarshire, particularly the estate of Both in Carmylie parish (*e*). Richard de Montealt was

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(*t*) Chart. Melrose, No. 29.

(*u*) Ib. 30: and he granted several other portions of land to the same monks under Alexander II. Ib. No. 32, 34-5-6.

(*x*) Ib. 41. (*y*) Ib. 42.

(*z*) Ib. 44. In 1256 died Walran de Normanville, and was buried at Melrose. Chron. Mel. 221.

(*a*) Rymer's Fœd., i., 566. (*b*) Dug. Baron., i., p. 527.

(*c*) He witnessed David's charter to Holyroodhouse. He was certainly an Englishman, says Sir Ja. Dalrymple. Col. 418.

(*d*) Chart. Cupar, No. 61. Laurence de Montealt is a witness to this grant. Robert de Montealt witnessed several charters of Alexander II., and some of Alexander III. Chart. Arbroath, No. 23; No. 17.

(*e*) On the 17th February, 1250, the abbot of Arbroath became bound to William de Montealt, the son of Michael de Montealt, to support a chaplain at his chapel of Both. Chart. Arbroath, No. 14. Michael de Montealt was sheriff of Inverness in 1234. Chart. Moray, fol. 20.

justiciary of proper Scotland with Philip de Maleville in the three years ending with 1242 *(f)*. Michael de Montealt was justiciary of proper Scotland with Philip de Melgdrum in 1252 *(g)*. William de Montealt was one of the Scottish barons who, in their famous epistle to the Pope, said they would never submit to England while one of them remained (*l*). Montealt has been vulgarized into Mowat, as the English family of Montefichet has been transformed into Muschet (*h*).

The de Vescies were a Northumberland family, during the reigns of Henry II. and of Malcolm IV. (*i*). Eustace de Vesci obtained from William the Lion his bastard daughter, Margaret, with the manor of Sprouston and other lands in Roxburghshire in 1192 (*k*). Eustace was killed by an arrow when Alexander II. and he advanced to view Castle-Bernard in 1216. Eustace and Margaret left a son, William, who confirmed their donations to the monks of Kelso and of Melrose (*l*). When so many pretenders to the crown of the Scottish kings appeared in 1291, William de Vesci, the descendant of Eustace, by the bastard daughter of William the Lion, gave in his illegitimate claim, which he withdrew in November, 1292 (*m*).

(*f*) Chart. Glasgow, 271 ; Chart. Cupar, No. 43.

(*g*) App. to Nisbet's Heraldry, 131 ; Rud. Index Diplom. Scotiæ. He was, as we have seen, the father of William de Montealt. Michael had another son, Bernard de Montealt, who was a witness to a grant of Alexander III. in 1265. Diplom. Scotiæ, pl. 36. Bernard de Montealt, with the abbot of Balmerinach and others, were drowned on their return home from Norway in 1281. Index to the Diplom.

(*l*) Diplom. Scotiæ, pl. 51.

(*h*) Dug. Bar., i., p. 438-9 ; Rud. Index Diplom. Scotiæ.

(*i*) Dug. Baron., i., p. 91. William de Vesci was a witness to a charter of William the Earl of Northumberland. Chart. Antiq. Brit. Mus. William de Vesci, knight, was sheriff of Northumberland from 1154 to 1168, when he probably died. Hutch. Northumberland, ii., p. 451.

(*k*) Out of that manor Eustace de Vesci granted twenty shillings to the monks of Kelso, to be received of the tenant of the *Mill of Sprouston,* for the tithes of the mill. Chart. Kelso, No. 207. Margaret de Vesci granted the monks this annual-rent on condition that they would receive her, her lord, and their heirs, into the society of the house. Ib., 209. In 1207 the monks of Kelso agreed that Eustace de Vesci and his wife Margaret should have a chapel in their court of Sprouston. Ib., 206. Richard de Vesci, the brother of Eustace, was a witness to this charter. For notices of Eustace, see Rym. Fœd., vi., 88 to 212 ; and Wallis's Northumberland, v. ii., p. 359-60. Margaret de Vesci confirmed to the monks of Melrose the grants of land which had been made by some of her vassals in the territory of Lilliesclif. Chart. Melrose, No. 70, 71.

(*l*) Chart. Melrose, No. 72, 73. He also confirmed to the monks of Kelso the grants to them in the territory of Moll, by his vassal, Gilbert Avenel. This charter is witnessed by William de Vesci, his son. Chart. Kelso, No. 170.

(*m*) 2 Rym. Fœd., 546-76.

Thomas de London, an Englishman, obtained from David I. the manor of Lessedwyn [Lessuden] in Roxburghshire, where he settled with his followers (*n*). He married a widow, whose name was Lovel, and who possessed some lands in his vicinity; out of which she gave to the monks of Jedburgh that portion which was called Uchtredsxaghe (*o*). Thomas de London was succeeded by his son Maurice, and he by his son Richard, who married Matilda de Ferrers, by whom Richard had Robert de London, his heir, during the reign of Alexander II. Robert confirmed to the monks of Dryburgh the church of Lessedwyn, for the safety of the souls of William the Lion, of Richard his own father, and of Matilda his mother (*p*). Robert de London, the descendant of Thomas de London, must not be confounded with Robert de London, the natural son of William the Lion, his contemporary (*q*).

The two families who were called *de London* must be distinguished also from two families who were denominated de *Lundin*, and who settled in those times, the one in Fife, and the other in Forfarshire (*r*). Philip de Lundin obtained from Malcolm IV. the manor of Lundie in Fife (*s*). Philip outlived Malcolm IV., and continued his career under William the Lion (*t*). He was succeeded by his son Walter, who obtained from King William a confirmation of the lands of Lundie (*u*). Out of these Walter made liberal grants to the monks of Cambuskenneth, which were confirmed by King William and by his heirs (*x*). Walter de Lundie also possessed the lands of Benvie, near Lundie, in Forfarshire (*y*), a circumstance which seems to denote that the Lundies of Fife and the Lundies of Forfar were originally the same. Walter,

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(*n*) Thomas de Lundonia witnessed some of the charters of David I. Chart. Glasgow, 429. He granted the church of Lessedwyn to the monks of Dryburgh; and this grant was confirmed by K. William, and by Jocelin, the bishop of Glasgow. Chart. Dryburgh, 40-1.

(*o*) Chart. Jedburgh.

(*p*) Chart. Dryburgh, No. 39.

(*q*) Chart. Inchcolm, No. 15. Robert de Lundyn was a witness to a charter of William the Lion, with Robert de London, the king's son. Chart. Arbroath, No. 6; and they thus appear together in other charters.

(*r*) The Latin name of the charters is *Lundin;* the English name of common life is *Lundie*, the usual appellation of the lands.

(*s*) Sir Ja. Dalrymple's Col., 398, which quotes the original charter.

(*t*) Diplom. Scotiæ, pl. 28; Chart. Cupar, No. 51; Chart. Arbroath; No. 73-112.

(*u*) Sir Ja. Dalrymple's Col., 398.

(*x*) He granted them four bovates of land with a toft, in the village of Balcormack, near Lundie, with pasture over his whole estate for 500 sheep, 20 cows, and three acres of field, which he had perambulated. Chart. Cambus., No. 40. Id., 41-2.

(*y*) Chart. Arbroath, No. 171.

by his wife Christian, left several sons, who appear in the chartularies as witnesses of their father's munificence to the monks.

Malcolm, who was designed de Lundin, was contemporary with Philip, who was probably his brother. Malcolm equally shared the bounty of David I. and Malcolm IV., from whom he obtained, perhaps, the lands of Lundie, in Forfarshire. Malcolm de Lundie was certainly succeeded by his son Thomas, who obtained from William the Lion the office of Door-ward or *Hostiarius*, which became hereditary in this family. He acquired lands in Marr, on the Dee, as well as in Forfar and in Fife, out of which his munificence induced him to make several donations to the monks (*z*). Thomas the Door-ward was alive in 1220; in that year he was one of the *Magnates Scotiæ*, who ratified the marriage of Alexander II. with Johanna of England (*a*). He was succeeded by his son Alan, the Door-ward, who was a busy actor during a busy period. Besides the hereditary office of *hostiarius*, he held the important trust of justiciary for proper Scotland from 1243 to 1251, and again from 1255 to 1257; and he became for a while the Earl of Athol, though the Peerage writers cannot tell by what design or accident (*b*). He early married the bastard daughter of Alexander II. He had the presumption to oppose the coronation of the infant son of his benefactor in 1249 (*c*). As a strenuous sol-

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(*z*) Thomas de Lundin, the son of Malcolm, and the king's Doorward, granted to the monks of Scone the church of Eycht in Marr, with its pertinents. Chart. Scone, No. 29-58. He gave to the monks of Arbroath the church of Kinernie in Marr, with the pertinents, which was confirmed by K. William. Chart. Arbroath, No. 88, 89. He granted to the same monks the forest of Trostach, lying between the Dee and Canie-water. Ib., No. 94. He granted to the monks of Cupar a mark of silver, to be paid yearly by him and his heirs out of his lands of Balmerinach, in consideration of the burying-ground which he had located before their church-door, where he desired he might be buried. Walter, Hostiarius, de Lundin is one of the witnesses to this grant, which was confirmed by William the Lion. Chart. Cuper, No. 51. This ground before the church door of the abbey became the burial-place of the family of Lundin, where Alan, the Door-ward, and the son of Thomas, was buried in 1275, as Fordun relates. l. x. c. xxxv.

(*a*) 1 Rymer's Fœd., 241.

(*b*) He calls himself Earl of Athol in a charter to the monks of Arbroath, confirming his father's grant of the forest of Trostach. Chart. Arbroath, No. 161. This charter was confirmed by Alexander II. in 1233. Ib. 162. He witnessed a charter of Alexander II. in 1234, wherein he is allowed to call himself *Earl of Athol*. Ib. 140. The transactions of those times evince that he was a most presumptuous character. What Nisbet in his Heraldry, i., p. 74, and Douglas in his Peerage, p. 45, say of him is quite erroneous. Crawford, the antiquary, supposes that he was Earl of Athol, by having the gift of the wardship of the young Earl. MS. Notes. However anomalous, this is not unlikely, considering the audacity of the man, and his marriage with Alexander II.'s bastard daughter.

(*c*) Lord Hailes An., i., 162; Fordun, x. c. i.

dier and ambitious statesman, he took his full share in the political management of that reign (*d*). Alan, the Door-ward, enjoyed estates in almost every district of the north—in Moray, Aberdeen, in the Mearns, and in Forfarshire (*e*). He was liberal to the monks; he founded hospitals and a convent, as we see in the chartularies (*f*). He died in 1275, and was buried in the inclosure, which his father had prepared for him, before the Abbey church of Cupar. He left three daughters, who carried his large estates with his blood, into other families (*g*).

A branch of the Anglo-Norman family of Heriz came into Scotland during the age of David I. (*h*). It is more than probable that the same William de Heriz, who appears to have attached himself to David I. and his son Henry, may have settled in Scotland. The peerage writers assign to William de Heriz three sons, Nigel, William, and Thomas; but neither the series, nor the filiation of those Herizes, have been accurately settled by those genealogical writers (*i*). William de Heriz, who witnessed a charter to the monks of Kelso at the end of the twelfth century, was probably the genuine stock of the Heriz family in Scotland (*k*). Nigel de Heris was forester in the southern districts to Alexander II., who directed a precept to him and to the sheriffs of Edinburgh

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(*d*) See 1 Rym. Fœd., 428-559-566-7-670-715.

(*e*) Chart. Mor., 85; Chart. Cupar, 54; Chart. Aberdeen, 309-15. In 1256 he acquired from Walter, the abbot of Arbroath, the lands of Banchory-Devenich in the Mearns. Chart. Arbroath, No. 16.

(*f*) In 1233 he founded an hospital at Kincardin O'Niel, near the bridge which his father had built over the Dee. See the foundation charter in Chart. Aberdeen, 315, and another charter from him to this establishment in 1250. Ib. 309.

(*g*) Fordun, l. x. c. xxxv. He had a son who grew up to man's estate, but died before himself; he was a witness in his father's acquittance to the monks of Arbroath in 1256, by the name of "Thomas Hostiarius filius meus, Miles." Chart. Arbroath, No. 208.

(*h*) William de Heriz was a witness to a charter which David I. granted to the monks of St. Bega at Kaplow. Chart. Antiq. Bibl. Harl. William de Heriz also witnessed a grant of Earl Henry to the monks of Wederhall. Monast. Angl. i. 399. He also witnessed a charter of Earl Henry to the monks of Holm-Cultram. Ib. 886. See Dug. Baron., v. i., p. 684-5, for some notices of this family, which leave it somewhat doubtful whether William emigrated from England. This family, who were not considerable, had their chief residence at Wyverton [Worton] in Nottinghamshire. The Scottish genealogists, taking no notice of this English family of Heriz, derive the Scottish race from the house of Vendosme in France! Dougl. Peer., 337.

(*i*) Nigel is said to have been a witness in some charters to the monks of Kelso. Sir. Ja. Dalrymple Coll., lxxxii.

(*k*) He witnessed a charter of William the Lion to the monks of Melrose, in the period from 1175 to 1199. Chart. Melrose, No. 4. He was a witness to a charter of Robert de Brus between 1183 and 1190. Chart. Arbroath, No. 66. Thomas de Heriz also witnessed the same charter to the monks of Kelso, with William and Nigel. There existed other persons of the same name in and Traquair, to ascertain the extent and value of the pasture of Lethanhope in Tweeddale (*t*). This family settled in Nithsdale under David II.; they obtained the barony of Terregles, and the lands of Kirkguneon in Galloway, and Achry in Stirlingshire (*l*). The representative of all those Herizes, Sir Herbert, obtained the title of Lord Herries of Terregles in 1493. From this stock are sprung the several families of Herries in Scotland.

The story which Douglas tells from Van Bassen, of the origin of the Cuninghams, is entirely fictitious (*m*). Camden traces them from England on surer grounds, though he confounds Hugh Moreville, the constable, who lived in a prior age, with Hugh Moreville, the assassin of Becket (*n*). Warnebald, who came from the north of England, settled as a vassal under Hugh Moreville in Cuningham (*o*). From him Warnebald obtained the manor of Cuningham, which comprehended the church and much of the parish of Kilmaurs; and from his manor Warnebald assumed the surname of Cuningham (*p*). Warnebald was succeeded by his son, Robert, in the manor of Kilmaurs and Cuningham. He married, as we have seen, Richenda, the daughter of Humphry de Berkeley, with whom he obtained several lands in the Mearns, which they granted to the monks of Arbroath, as we know from the chartulary of that opulent house. As Robert was the vassal of Richard Moreville, he was a witness to some of his charters (*q*). Robert granted the church of Kilmaurs, "in villa "mea de Cuningham," to the monks of Kelso, with a carucate of land be-

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Scotland, in the twelfth century. Henry de Heriz witnessed a charter of William de Somerville to Ingelram, the bishop of Glasgow, between 1164 and 1174. Chart. Glasgow, 51. Ivon de Heriz and Roger de Heriz, witnessed a charter of Walter de Berkeley, the chamberlain, between 1189 and 1196. Diplom. Scotiæ, pl. 77.

(*t*) Chart. Newbotle, No. 130. Douglas mistakingly calls this forester Henricus de Heriz.

(*l*) Robertson's Index to the Records.

(*m*) Peerage, 289.

(*n*) Camden, 1607, p. 695.

(*o*) Crawford's Peerage, 167.

(*p*) There was here of old a hamlet and manor-place named Cuningham: there is still in the neighbourhood of Kilmaurs the mansion of Cuningham-head, where there was an old castle when Pont surveyed this country. Blaeu's Atlas Scotiæ. From this manor-place the whole district took its name. We are told, indeed, that the district took its name from being the residence or *ham* of some king in some age: it was not recollected that such a king never existed, and that *Cuning* signifies a rabbit, while *Cyning* means a king. *Cuning*, in the British, signifies a rabbit; the word was adopted into the Anglo-Saxon and Scoto-Saxon; and this word appears in the names of places where rabbits abounded; as *Cunin-garth* in Northumberland, *Cunin-garth* in Lanarkshire, *Cuning-hills* in Lothian, *Cuning-haugh* in Bellie parish, Banffshire, *Cuning-park* in Ayrshire; so *Cuning-ham* means rabbit-ham, or the place where rabbits abound. There is another place which was called *Cuningham*, probably from the same circumstance, in the parish of Wigton.

(*q*) Diplom. Scotiæ, pl. lxxv; Macfarlane's, Col. etc. He also witnessed some charters of William the Lion. Chart. Glasgow, 25-35.

longing to the church (*r*). This grant was confirmed by Richard de Moreville, his superior (*s*). Robert, the son of Warnebald, died some time before the year 1189, and was succeeded by his son Robert, who confirmed his father's grants to the monks of Kelso; and his confirmation was confirmed by his superior lord, Richard de Moreville, who died in 1189 (*t*). This family of Cuningham is frequently mentioned in the chartulary of Paisley. Their descendants became lords of Kilmaurs, and in 1488, Earl of Glencairn (*u*); and from them were descended several very respectable families of the name of Cuningham, in North-Britain (*x*).

The progenitors of the Lockharts were Stephen Lockard and Simon Lockard, who settled in Lanarkshire and in Ayrshire during the twelfth century. Stephen appears as a witness with other vassals to a charter of Richard de Moreville. Simon Lockard, who appears as early as the reign of Malcolm IV., is supposed by the genealogists to have been a son of Stephen (*y*); but this is doubtful, as they seem to have been contemporaries (*z*). Simon certainly settled in Upper Clydesdale, at a place which was named from him *Simons-town*, and which gave its appellation to the parish (*a*). The parish kirk was then called *Wudekirch.* Simon Lockard confirmed to the monks of Kelso the church named *Wudekirch,* with the lands appertaining to it (*b*). This confirmation was confirmed by Joceline, the bishop of Glasgow, whose charter mentions that the parish of Wudekirch comprehended the manors of Simontown and Tankardstown (*c*). Simon Lockard was succeeded by his son Malcolm, who held his

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(*r*) Chart. Kelso, No. 282. The consideration of this grant was, very usually in that age, an easy reception into the fraternity of the house. He gave the same monks two parts of such goods as should belong to him at his death. Id. John, the abbot of Kelso from 1160 to 1180, granted to Robert, the son of Warnebald, the village of Little Draffan, for the yearly payment of half a mark. Ib. 104.

(*s*) Ib., No. 284.

(*t*) Ib., 283-4.

(*u*) Crawford's Peer., 168.

(*x*) Id., Doug. Bar.; Index to the Diplom. Scotiæ; Nisbet's Heral., v. i., p. 195; and Ap., 43 and 297.

(*y*) Dougl. Bar., 323.

(*z*) Simon Lockard is a witness to a charter with Herbert the bishop of Glasgow in 1164. Chart. Kelso, No. 334. Simon was a witness, with Richard Moreville, to a grant of William the Lion at Rutherglen. Chart. Glasgow, 339.

(*a*) He had also some lands in Kyle, which was from him named *Simons-town,* whence the present name of the parish of *Symontown.* Chart. Paisley, No. 7.

(*b*) Chart. Kelso, No. 336.

(*c*) Id., 411. Tankardton forms now a part of Covington parish.

lands in Kyle, under the family of Stewart (*d*). Simon Lockard was the undoubted progenitor of the Lockharts of Lee, the stock whence sprung the whole Lockharts of North-Britain (*e*).

The origin of the Scottish family of the Hays, as transformed into legend by the genealogists, is entirely fabulous. The Hays of Scotland are certainly a branch of the Anglo-Norman Hays, who themselves probably came into this country with William the Norman (*f*). The first person of this name who appears in Scottish record is William de Hay, who settled in Lothian at the middle of the twelfth century (*g*). He acted as *Pincerna* during the reign of Malcolm IV. (*h*). He was also *Pincerna* in the beginning of the reign of William (*i*). The first William de Hay died about the year 1170, and he was succeeded by his son William, whom he had by a sister of Ranulph de Sules, the Lord of Liddisdale. This son inherited his lands but not his office, which passed into the family of Soules, with whom it seems to have become hereditary. The first William de Hay left another son, Robert, who was the progenitor of the Hays of Locherwart, the Lords of Yester, and Earls and Marquises of Tweeddale. During those times there were other Hays in Scotland (*k*). The second William de Hay, as he was the frequent attendant on William the Lion, witnessed many of his charters (*l*). He had the honour to be one of the hostages for William when he was liberated in 1174 (*m*). The earliest possessions of the Hays were in Lothian. King William granted to the second William de Hay the

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(*d*) He granted to the monastery of Paisley, which owed its foundation to the first Stewart, six acres of land "in *Villa Symonis* de Kyil;" in *Simonton* in Kyle, in pure alms, "pro salute animæ "Walteri filii Alani," etc. Chart. Paisley, No. 67. From this notice it appears that *Symontown* in Kyle derived also its appellation from the name of his father, as well as *Symon-town* in Clydesdale.

(*e*) William, the son of Simon, flourished under Alexander II. Chart. Newbotle, No. 232. Simon *del Ley* lived in 1339. Ib., 234. Alan Lockhart de Lee lived in 1467. Ib., 290-1. For other notices about those respectable families, see Douglas Bar., 323; Sir Ja. Dalrymple's Col., 415; Chart. Paisley and Kelso; and Robertson's Index.

(*f*) Dug. Baron., v. i., 597; Dougl. Peer., 477.

(*g*) William de Hay was a witness to several charters of Malcolm IV. Chart. Scone; Chart. St. Andrews; Chart. Glasgow, 27; Dougl. Peer., 247.

(*h*) Diplom. Scotiæ. pl. 24.

(*i*) Chart. Cupar, No. 3; Chart. Glasgow, 27.

(*k*) David de Hay flourished with Roger, the bishop of St. Andrews, from 1198, when he was consecrated, to 1202, when he died. Chart. Cupar, No. 62; Chart. of Arbroath, No. 122.

(*l*) Diplom. Scotiæ, pl. 26, 28; Chart. Glasg., 218-339; Chart. Newbotle; Chart. Kelso; Chart. Dunfermline.

(*m*) 1 Rym. Fœd., 40.

extensive manor of Errol, in the Carse of Gowrie, with the pertinents (*u*). William de Hay immediately granted in subinfeudation several parcels of this manor to his followers (*o*). He granted in the same manner to the monks of Cupar the lands of Ederpolls (*p*). The peerage writers have married this William de Hay, who thus lived under King William, and died at the end of the twelfth century, to Eva, a daughter of Alan the Doorward, who flourished under Alexander III. and died in 1275 (*q*). William de Hay certainly had six sons, the eldest of whom, David, succeeded him in his estates. In the thirteenth century the Hays became thus numerous in the Carse of Gowrie and in the adjoining countries of Perth, Forfar, and Fife (*r*). In the fourteenth century they became still more numerous, and spread into Aberdeenshire and into other parts of the North : yet it must be always remembered that it was William de Hay, the first, and William de Hay, his son, who were the real progenitors of the Hays of Errol, that obtained from Robert Bruce the office of constable, and from James II. the Earldom of Errol in 1462 (*s*). From the first William de Hay, by his son Robert, as we have seen, sprung Hay of Locherwart in Lothian, whose descendants by various transmissions became Earl and Marquis of Tweeddale in the seventeenth century (*t*). Robert de Hay does not appear to have enjoyed much property or consequence. He left a son, William, who was the father of John, before mentioned, who married Margaret, the co-heiress of Robert de Lyne, with whom he obtained the manor

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(*n*) Charter in the family archives ; Dougl. Peer., 248. This grant must have been made in the period from 1178 to 1198 ; Crawford says, mistakingly, during the reign of Malcolm IV. Peer., p., 137.

(*o*) Chart. Cupar, No. 41-45. He granted lands to his younger sons. Ib., 42.

(*p*) Ib., 39. This place, as the Gaelic name implies, lay between the two *polls* or rivulets which were called the *Pol* or *Pow* of Errol and *Pol-gavie* ; the name of Ederpolls has been long since forgotten.

(*q*) Dougl. Peer., 248. The wife of William de Hay was certainly named *Eva,* but not the daughter of Alan, who was born half a century afterwards. He obtained by his wife the lands of Pitenalin which Eva and he granted to the priory of St. Andrews ; and this grant was confirmed by their son David and by K. William, who died in 1214. Chart. St. Andrews ; Crawford's M.S. Notes.

(*r*) They may be all traced in the chartularies ; see Chart. Cupar, from No. 40 to 55.

(*s*) From this noble stock are sprung the Hays, Earls of Kinnoull. Crawf. Peer., 248 ; Dougl. Peer., 384. Hay, Lord Bewlie, and Earl of Carlisle. Dougl. Peer., 73. Hay of Leys, Hay of Pitfour, Hay of Renfield, Hay of Ranes, of Inchoch, and many others. Id.

(*t*) The peerage writers again err in deriving this respectable family through the *second* William de Hay instead of Robert de Hay. Dougl. Peerage, 678. Crawford indeed calls the brother of William, who was the true founder of this family, John de Hay. Peerage, 484.

of Locherwart in Mid-Lothian (*w*). From this branch of the Hays sprung the respectable families of the Hays in the south of Scotland (*x*).

The progenitor of the *Ruthvens* was Thor, a person of Saxon or Danish blood, who came from the north of England and settled in Scotland under David I. (*a*). This Thor was a different person from Thor-longus, whom we have seen under Edgar, in a prior age, and from other Thors who appeared in different aspects nearly in the same period. The progenitor of the Ruthvens seems to have attached himself to Earl Henry, from whom he obtained probably a grant of lands; for Swan, the son of Thor, gratefully commemorates Earl Henry in his charters to the monks of Scone. Swan, the son and successor of Thor, lived long under William the Lion, and enjoyed the manors of Ruthven, Tubermore, and other lands in Perthshire. Swan also possessed, as superior lord, the territory of Crawford in Upper Clydesdale, which the progenitors of the Lindsays held as vassals under him (*b*). Swan, as he was opulent, practised the virtue of munificence according to the practice of the times, and he made several donations to the monks, who were the objects of his liberality (*c*). It was Walter, the son of Alan before mentioned, who first assumed the surname of Ruthven, and who acquired the

(*w*) David, the son of Robert de Lyne, possessed Locherwart, this ancient seat of the family of Tweeddale, under King William, while Joceline was bishop of Glasgow, from 1175 to 1199. Chart. Newbotle, No. 23. David was succeeded by his son Robert de Lyne. Ib., No. 24; and this Robert was the father of Margaret, who, by marrying John de Hay, transferred this large estate of her father's to the family of Hay. See a charter of confirmation of William de Hay, the son of this marriage. Ib., No. 26; and see a convention between the abbot of Inchcolm with William de Hay de Locherwart, Knight, and son of John de Hay, 1263. Chart. Incholm, 24.

(*x*) The genealogists name the Hays of Linplume, the Hays of Barra, the Hays of Belton, the Hays of Smithfield, the Hays of Hayston, the Hays of Spot.

(*a*) During the 12th century *Swan* and *Thor* were common names in the north of England. Dug. Monasticon. Adam, the son of Swan, flourished in Yorkshire. 1 Dug. Bar., 663. Ada, the son of Swan, and H. the son of Swan, were witnesses to a grant of David I. to the monks of St. Bega. Chart. Antiq. Bibl. Harl.; Chart. Melrose, No. 54.

(*b*) Chart. Newbotle, No. 144, 145, 146, under William the Lion.

(*c*) Swan, the son of Thor, granted to the monks of Scone Achunapobel by the same limits as Robert the chaplain had held them; and that toft in Tubermore which *Aurifaber* held, and also the meadow on Loch Methin [Methven in Perthshire] with common of pasture. Chart. Scone, No. 24. This grant was confirmed by King William. Ib., 20. Walter, the son of Alan, the son of Swan, the son of Thor, confirmed the grants of his grandfather, Swan; and upon this Alexander II. granted a charter of confirmation. Ib., No. 62. Swan, the son of Thor, also gave to the monks of Inchcolm a toft in Tubermore, which was confirmed by his grandson Walter, the son of Alan; and by his descendant, William de Ruthven, in 1362. Chart. Inchcolm, No. 12.

lands of Cowgask in Perthshire, by marrying Cecily, the daughter of Gilbert the Earl of Strathearn, in the reign of Alexander II. (*d*). Such then were the progenitors of the Ruthvens, who obtained the earldom of Gowrie in 1581, who were created Barons of Ruthven in 1651, and branched out into other families of less consideration (*e*).

Ramsay in England is a local name. From it, however, is derived the same name in Scotland. The progenitor of the Ramsays in the north, was Simon de Ramsay, who settled in the Lothians under David I. He first appeared as a witness in a charter of Thurstan, the son of Livingus, to the monks of Holyrood at the end of David's reign; and he again appeared as a witness to a grant of William Moreville, the Constable (*f*). He left a son, William de Ramsay, who witnessed some of the charters of William the Lion, during the twelfth century (*g*). Such were the obscure progenitors of Sir Alexander Ramsay, one of the bravest and most virtuous warriors of the afflictive reign of David II.; and such the progenitors of the Earl of Dalhousie (*h*). From this family sprung Ramsay Viscount and Earl of Holderness, who merited his peerage by his intrepid loyalty (*i*); and from the Ramsays who settled in Lothian, sprung the several respectable families of the same name, in every district of North-Britain.

The Falconers of Halkerton derive their origin from Walter, who obtained from David I. the lands of Lonkyir [Lumgair] in the Mearns. His son Ranulph was appointed *Falconer* by William the Lion, who gave him Luthra, Balbegno, and other lands, calling him at the same time *Falconarius noster*. From this circumstance the descendants of Ranulph were designed *le Falconer*, which became the surname of the family, which in 1647 acquired the peerage of Halkerton (*k*).

The Rollos derive their origins from Richard de Rollo, an Anglo Norman who settled in Scotland during the reign of David I. (*l*). From this prince

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(*d*) Crawf. Peer., 165. Alan left a son Walter, who obtained a confirmation from the Earl of Strathearn of the lands which Gilbert his father had given to Walter, the son of Alan, with Cecily his daughter. Id.

(*e*) Crawford's Peerage; Doug. Peerage, 304-601. (*f*) Chart. Glasgow, 165.

(*g*) Chart. Coldingham. He was a witness to a convention of Richard, the Bishop of Moray, with Duncan, the Earl of Fife. Chart. Moray, 152.

(*h*) Doug. Peer., 107. (*i*) Ib. 317; Dugdale's Baron., v. ii., 441.

(*k*) Crawford's Peer., 183-4. Nisbet's Heraldry, v. i., 353. The armorial bearings of this family refer to their ancient office. Peter le Faukener, a younger son of Ranulph, or a grandson by his son Walter, was *Clericus Regis* under Alexander II. Chart. Kelso, No. 157.

(*l*) Richard de Rollo witnessed some charters of David I. before the year 1141.

he obtained some lands in Perthshire, where he planted this ancient race. In 1380, they acquired the lands of Duncrub with other possessions, (*m*) and in 1651 obtained the peerage of Rollo. From this lineage branched out many respectable families of Rollos in various parts of North-Britain (*n*).

Radulph, who was called Rufus, obtained from William the Lion, before the year 1184, the lands of Kinnaird in the Carse of Gowrie (*o*). From this local circumstance, this family assumed, like other feudal chiefs, their surname of *Kinaird*. This ancient race did not acquire the peerage till the recent period of 1682 (*p*).

The progenitor of the Abernethys was Orm, the son of Hugh, who flourished under Malcolm IV., whose charters he witnessed (*q*). Orm, the son of Hugh, possessed during his reign the lands of Dunloppie in Forfar, and of Balbrennie [Balbirnie] in Fife (*r*). From William, the successor of Malcolm, Orm, the son of Hugh, acquired the manor of Abernethy in Strathearn (*s*). It was from this manor that Orm, his son Laurence, and their posterity, assumed the surname of Abernethy. Orm, the son of Hugh, exchanged his lands of Balbirnie with Duncan the Earl of Fife, for the lands of Glenduachy in Fife, and Balmadethy in Forfar (*t*). Orm was succeeded by his son Laurence, who acquired importance as he obtained additional territory (*u*). After

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(*m*) Charter in the family archives. (*n*) Crawford's Peerage, 422 ; Dougl. Peer., 571.

(*o*) A charter in the family archives ; Martin's M.S. collections.

(*p*) Crawford's Peer., 247 ; Dougl. Peer., 381.

(*q*) There were various persons of the name of Orm in the northern parts of England during the twelfth and eleventh centuries. From them several places were named *Orms-by, Orms-ton, Orms-kirk,* and others. During the twelfth century some persons of the same name went from England into Scotland. One of them gave his name to *Orms-ton* in Roxburghshire, while another imposed his name on *Orms-ton* in Lothian. Orm, the son of Eilav, is a witness to the charters of David I., of Earl Henry, and of Malcolm IV. Diplom. Scotiæ, pl. xiv.-xxiv. He settled in the territory of Crailing, at the place called from him *Ormston*. MS. Monast. Scotiæ ; Chart. in Sir Lewis Stewart's Collections.

(*r*) Laurence, the son of Orm, obtained from Alexander II. a confirmation of Malcolm's charters for the lands of Dunloppie. Douglas Peer., p. 10.

(*s*) Laurence, the son of Orm, also obtained from Alexander II. a confirmation of William's grant of Abernethy. Id.

(*t*) This exchange was confirmed by a charter of William before the year 1185. The charter quoted by Douglas Peer., p. 9. *Glenduachie* is *Glenduckie* in Flisk parish, and *Balmadethy* is now Balmadity in Fearn parish.

(*u*) See the Chart. of Arbroath, No. 63-4, and the general charter of K. William to that monastery, for notices of Laurence de Abernethy. He resigned to the monks of Balmerinach the lands of Cultran, of Balnedan, of Balnedard, of Corteby, and Balmurenach, in consideration of 200 marks received from the executors of Queen Ermingard, the foundress of that monastery. Chart. Balmerinach, No. 7. See the Chartulary of Cupar for several descendants of Orm and Laurence.

various descents, Alexander, Lord Abernethy, who died in the reign of Robert I. without male issue, left three daughters, who carried his estate and blood into the families of Stewart, of Lindsay, and of Lesley (*v*). From Laurence, and Orm the son of Hugh, are descended the family of Abernethy, Lord Saltoun, and other families of the same surname in Scotland (*w*).

A younger son of Gray of Chillingham, a Norman family who settled in Northumberland, obtained a settlement in Scotland under William the Lion. He is the progenitor of the family of Gray, Lord Gray, and other families of the same surname in North-Britain (*x*).

The Kers derive their descent from an Anglo-Norman family of Ker or Car, a branch whereof settled in Scotland during the thirteenth century. From that branch sprung the Duke of Roxburgh's family, the Marquis of Lothian's family, Lord Jedburgh's family, and other respectable families of the same surname in North-Britain (*y*).

The families of Colville in Scotland sprung from the race of the Colvilles in England (*z*). Their progenitor was Philip de Colville, who settled in North-Britain during the twelfth century. He appears as a witness to some charters of Malcolm IV. (*a*); to several of William, his successor (*b*); and he thus flourished at the demise of the one king in 1165 and at the accession of the other. He had the honour to be one of the hostages who contributed to the freedom of William the Lion in 1174 (*c*). The first possessions which Philip de Colville obtained in Scotland were the manors of Heton and Oxnam in Roxburghshire (*d*). His grandson and great grandson acquired the manors of Kinaird in Stirlingshire, and the lands of Ochiltree in Ayrshire. They afterwards obtained the barony of Easter Wemyss by exchange for Ochiltree. Ada de Colville, widow, granted to the monks of Newbotle the lands of Kinaird; paying yearly for the same, ten pounds of silver, for the salvation

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(*v*) Crawford's Peerage, 40. (*w*) Id., 435; Doug. Peer., 603.

(*x*) Crawf. Peer., 178; Douglas Peer., 308.

(*y*) Douglas Peerage, 591, 416, 355. (*z*) 1 Dug. Bar., 626.

(*a*) Chart. Antiq. Bibl. Harl., Chart. St. Andrews.

(*b*) Chart. Arbroath, No. 79; Chart. Glasg., 27. (*c*) 1 Rym. Fœd., p. 40.

(*d*) Chart. Dryburgh, No. 167; Chart. Kelso. Thomas de Colville was a witness to several charters of K. William between the years 1189 and 1199. Chart. Soltre, No. 6; Chart. Arbroath, No. 51. Thomas de Colville had property in Berwickshire. He was succeeded by William de Colville, his son, who granted to the monks of Newbotle the lands which belonged to his father "super le Ness." Chart. Newbotle, No. 210. William de Colville settled at Morham, in East Lothian, under William the Lion. Ib., No. 106. Robert Colville was the laird of Oxenham during the reign of Robert I. Chart. Kelso, No. 511.

of Alexander II., his queen, and their son Alexander III. (*e*). She assigned this annuity to William Locard, the son of Malcolm Locard, and his heirs (*f*). Thus Philip de Colville was the progenitor of Colville, Lord Colville of Culross (*g*). From this stem branched off Colville, Lord Colville of Ochiltree, and of several other persons of the same name (*h*).

The progenitor of the Gordons came from England into North-Britain soon after the commencement of the twelfth century. He obtained the lands of *Gordon* in Berwickshire, where he settled with his followers, and whence, like other chiefs in that age, he assumed the surname of *Gordon*. He was succeeded by his son Richard de Gordon, who enjoyed his estates (*i*). Richard was succeeded by his son Thomas (*k*), and he by his son Thomas. The second Thomas was succeeded in his estates by his daughter Alicia, who married Adam de Gordon her cousin (*l*). The Gordons, we now see, had extended themselves, like other great families, beyond their original territories (*m*). Adam de Gordon, who flourished at the end of the thirteenth century, the grandson of Alicia de Gordon, was the common progenitor of the Gordons of the North and of the Gordons of Galloway. The Gordons seem not to have mingled in the party struggles during the minorities of Alexander II. and of Alexander III. Sir Adam de Gordon first appeared, like a gallant knight, in support of the valorous Wallace during his efforts for his country; and he afterwards contributed his exertions to the final success of

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(*e*) Chart. Newbotle, No. 231.

(*f*) Ib., 232. This grant to the monks was confirmed by her daughter, Ada de Morham. Ib., 233. Ada de Morham appears to have been the daughter of Ada, by Adam de Morham of Stanhus. Ib., 236-7.

(*g*) Crawford's Peer., 80.

(*h*) Dougl. Peer., 142.

(*i*) Richard granted to the monks of Kelso the church of Gordon, with a right of pasturage in his manor of Gordon, with an acre of land in Todlaw, and an acre of meadow in Hundleistrother. Chart. Kelso, No. 117.

(*k*) Thomas, the son of Richard, confirmed the grant of his father Richard to the monks of Kelso. Ib., 125. Thomas was succeeded by his son Thomas, who confirmed the charter of his father. Ib., 126. There are other charters of Thomas de Gordon, the father, and of Thomas, the son. Ib., No. 120-21-22. Adam, the son of Adæ de Gordon, granted to the same monks pasture within the same manor for thirty cows, "in marisco meo qui dicitur *West-Strother*." Ib., 118.

(*l*) Alicia, the daughter and heiress of Thomas de Gordon, confirmed the grants to those monks of her father Thomas, of her grandfather Thomas, and of her great grandfather Richard. Ib., 119.

(*m*) There is a grant to the monks of Dryburgh, of Adam de Gordon, Knight, the husband of Alicia, of a *petaria*, in his territory of Fawnis. Chart. Dryburgh, No. 140.

Robert Bruce (*n*). At the end of the thirteenth century, Sir Adam acquired the Glenkens in Galloway, which he granted, with the lands of Stitchel in Roxburghshire, to his second son William, who was the progenitor of the Viscounts of Kenmure, and of other Gordons in Galloway. On the forfeiture of David de Strathbogie, the faithless Earl of Athol, Robert I. granted to Sir Adam the lordship of Strathbogie with its appurtenances in Aberdeenshire and in Banff. In consequence of this munificent grant, the Gordons went from Berwickshire into the North, where many a vassal settled with them (*o*). Sir Adam fell fighting for his country in the battle of Halydon-hill, 1333. His eldest son, Alexander, succeeded him, and was designed *de Huntly*; and he became the progenitor of the principal branch, who rose to be Earls and Marquises of Huntly, and Dukes of Gordon (*p*).

The Scottish genealogists have been so injudicious as to introduce legend into the biography of the Grahams (*q*). The first person of this celebrated name who appears in record was William de Graham, who settled in Scotland under David I. (*r*). He obtained from that generous prince the lands of Abercorn and Dalkeith in the Lothians, where he sat down with his followers. When William de Graham died, he left two sons, Peter and John, the first of whom inherited his father's lands in the Lothians (*s*). From this

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(*n*) In 1300 Sir Adam Gordon was Warden of the Marches. Rymer, ii., 870. In 1305 he was fined three years' rent by Edward I. for his resistance to the arms of that king in Scotland. Ib., 969. In the same year he was chosen by the Scots one of the Commissioners for settling the government of Scotland. Ryley's Placita, 503. When this settlement took place in September, 1305, he was appointed one of the Justiciaries of Lothian. Ib. 504.

(*o*) William de Gordon of Coldenknows, a branch of the chief, Gordon of Gordon, in Berwickshire, settled in the north with his relation Adam de Gordon, and became the progenitor of the Earls of Aberdeen, and of other respectable families of Gordon in that district. Crawford's Peer., 3; Dougl. Peer., 6.

(*p*) The ancient appellation was *Hundeley*, as we see it in charters of the 12th century; and when the name of this place in Berwickshire was transferred to Strathbogie in the north, it became *Huntly*, which was long the principal title of this distinguished race. For the Gordons, Earls of Aboyne, and other knightly families of the Gordons, who are all derived from a common stock, see the Peerages and Baronages.

(*q*) Crawford's Peerage, 336.

(*r*) William de Graham was a witness to the charter of David I. to the monks of Holyrood-house in 1228. Maitland's Edin., 144; Sir J. Dalrymple's Col., 397. William de Graham with others, perambulated the lands which David I. gave to the church of Haddington. Diplom. Scotiæ, pl. xvi.

(*s*) If *Graham* be considered as the proper spelling of this distinguished surname (and this is the orthography of the charter of Holyrood-house), the word may be supposed to be a compound accidental circumstance, the first descent from the genuine stock of this family actually produced two branches. (I.) Peter de Graham, who may be considered as the founder of the Dalkeith family, flourished partly under Malcolm IV., but more under William his successor. Peter granted to the monks of Newbotle, for the soul of William his lord, the lands of Balnebuth on the Esk, in his manor of Dalkeith (*t*). Peter had two sons, Henry and William (*u*); but Henry, as his heir, confirmed to the monks of Newbotle his father's grant (*x*). Henry was succeeded by his son Henry, who confirmed the charter of his grandfather Peter, and of his father Henry, to the monks of Newbotle (*y*). This second Henry was succeeded by his son Henry, who is unnoticed by the peerage writers, and who was, however, one of the *magnates Scotiæ* in 1284 (*z*). In addition to the manors of Dalkeith and Abercorn in Lothian, the third Henry acquired by marrying the daughter of Rogel Avenel, who died in 1243, the great estates of the Avenels in Eskdale. Henry must have been well stricken in years when he thus appeared in 1284; and he was succeeded by his son, Nicholas de Graham, Knight, who sat in the Parliament at Brigham in 1290, and was one of the nominees of Bruce in 1291 (*a*). Nicholas de Graham, Knight, married Maria, one of the daughters and heirs of Margery de Muschet, the Countess of Strathearn (*b*) He died before his wife, in the reign of Robert I., and was succeeded by his son Sir John de Graham, who lived under Robert I. and David II., and whose daughter, Margaret, carried his estates of Abercorn, Dalkeith, and the property of the Avenels in Eskdale, to William Douglas of Lugton in Lothian, the predecessor of the Douglases, who became Earls of Morton. Here ended under David II., the male heirs of

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of *Gray-ham*, the dwelling of Gray, which was the name of some considerable families in England. Dug. Baron., v. i., p. 709 to 723. But if the just spelling were *Grame* or *Græme* we might regard the name as a genuine Saxon word, signifying angry, fierce; *Grim*, austere, savage. There appeared in England several persons called *Gram* and *Grim*; and hence the names of places, *Grams-ton*, *Grims-by*, *Grims-thorp*, and *Grims-ton*. One of the Orkney Isles is named *Græmes-ey*.

(*t*) Chart. Newbotle, No. 7.

(*u*) Henry de Graham and William de Graham, the *sons of Peter*, witnessed a charter of the mother of K. William, the Countess Ada, who died in 1178. Id. Henry de Graham witnessed some of the charters of K. William. Chart. Glasg., 37.

(*x*) Chart. Newbotle, No. 18.

(*y*) Ib. 19. This charter clears the descent thus far: (1) Peter; (2) Henry; (3) Henry, the grandson of Peter.

(*z*) Rymer's Fœd., ii., 266.

(*a*) Rymer's Fœd., v. ii., 471, 553.

(*b*) Robertson's Index, p. 11, in contradiction to Sir. Ja. Dalrymple, Col., 397, who mistakingly marries him to the daughter of Avenel, who was in fact his mother.

Peter de Graham, who so long enjoyed the estates of Abercorn, Dalkeith, and of Eskdale, with other lands in various districts. Yet were they the progenitors of other families of Graham, who are called in the public records the *consanguinei et cognati* of the Grahams of Abercorn (*c*). (II.) John, the second son of the first William de Graham, appears in several charters of the reign of William the Lion (*d*). John de Graham was succeeded by his son, William de Graham, who obtained from his cousin Henry, the son of Peter de Graham, the lands of Clifton and Clifton-hall in Mid-Lothian. The same David obtained from William the Lion, towards the end of his long reign, the lands of Charleton and Barrowfield near *Montrose*, and the manor of Kinaber at the mouth of the North-Esk in Forfarshire (*e*). We here see, in the charter of King William, the origin of *the Grahams of Montrose*, who ere long acquired considerable estates in Stirlingshire and other districts. The first David of this family was succeeded by his son David during the reign of Alexander II. The second David appears to have acquired the lands of Dundaff and Strathcarron, of Mugdock and Strathblane (*f*). By Agnes his wife he left as his successor, soon after 1244, David his son, who flourished under Alexander III. He acted a conspicuous part with the Cumyns under the minority of Alexander. In 1255 he was by Henry III. removed from the Councils of Alexander as one of the Scottish party in opposition to the English faction (*g*). He married Annabella, the sister of Malise, the Earl of Strathearn, from whom he obtained with his wife the lands of Kincardine in Perthshire: and by her he left two sons, Sir Patrick Graham, who fell on the fatal field of Dunbar fighting for his country, and Sir John Graham who also fell in supporting Wallace at the battle of Falkirk (*h*). Sir Patrick was

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(*c*) Doug. Peer., 480, which quotes the charters. Douglas's Account of the Grahams, which begins with legend, is a vast mass of confusion, contradiction, and error.

(*d*) Chart. Arbroath, No., 135 ; Chart. Newbotle, No. 24. In 1200 John de Graham was present in K. William's court at Alyth, when William Cumyn resigned his pretensions to certain lands to the church of Glasgow. Chart. Glasgow, 47.

(*e*) For this grant Douglas quotes the family archives, which seem to be well preserved. Peerage, 480.

(*f*) Doug. Peerage, 480, which quotes the family archives. He seems to have been a frequent witness in the charters of Alexander II. from 1230 to 1240. Id. He had the honour to be one of the guarantees of a treaty with the captious Henry III. in 1244. Rymer's Fœd., i. 428.

(*g*) Ib., 566.

(*h*) This is the gallant Sir John the Graham who is celebrated in Scottish song. He was designed of *Dundaff* in Stirlingshire. Lord Hailes was misled by Sympson in calling him *of Abercorn*. Annals, v. i., 256. Sir John Graham of *Dundaff* reared the national standard with one of the *Magnates Scotiæ*, who engaged in 1284 to submit to Margaret as the heir of Alexander III. (*i*). He appeared in 1290 among the barons at the parliament of Brigham (*k*). In 1291 he acted as one of Baliol's nominees (*l*). He swore fealty to Edward I. at Norham on the 13th of June, 1291 (*m*); and in 1296 he died on the bloody field of Dunbar, "a goodly "knight all dressed in harness meet (*n*)." The genealogists left it somewhat uncertain whether that illustrious man was succeeded by his brother or his son (*o*); but we have just seen that Sir Patrick was succeeded by his son David who was not unworthy of him, for after many dangers and struggles David de Graham was one of the *Magnates Scotiæ* who, in maintaining the independence of their country, magnanimously asserted to the Pope that while one of them remained they would not submit to Edward (*p*). He died soon after the demise of his great sovereign, Robert Bruce (*q*). From this gallant race proceeded the Grahams, Earls of Monteith, Graham Viscount of Preston, Graham Viscount of Dundee, the Grahams of Balgowan, and other considerable families of this ennobled appellation (*r*).

The principal Sinclairs of North-Britain are descended from the Anglo-Norman family of Saint-Clair, who came over with the *Conqueror*. Two families of Sinclair settled in Scotland during the twelfth century, the Sinclairs of Roslin and the Sinclairs of Herdmanston. The progenitor of the first was William de Saint Clair, who obtained the manor of Roslin in Lo-

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Wallace in June, 1298; and he fell in the battle of Falkirk on the 22nd July, 1298. He must not be confounded with John de Graham of Perthshire, who died some years before, and whose widow Margery submitted to Edward I. in 1296, and got from that king a restoration of her lands. Rymer's Fœd., ii., 727.

(*i*) Ib., 266. He is said to have been Sheriff of Stirling. Crawford's Hist. Renfrew, 29.

(*k*) Rym. Fœd., ii., 471. (*l*) Ib., 553. (*m*) Ib., 558. Prynne, v. viii., p. 508.

(*n*) His seal is engraved in Astle's Scots Seals, pl. 111, No. 18. The *legend* is *Sigillum Patricii de Graham.*

(*o*) David de Graham, Miles, swore fealty to Edward I. at Berwick, on the 1st of August, 1291. David the brother of Patrick, and David the son of Patrick, were both taken prisoners in 1296, and they were liberated in 1297. Rym. Fœd., ii., 776. David de Graham, knight, the brother of Patrick, acquired by whatever means the lands of Loveth in Inverness-shire, and he made a composition with Archibald, the Bishop of Moray, who died in 1298, about some fishings in the river Farar or Beauly. Chart. Moray, fo. 44.

(*p*) David de Graham was one of the persons who was excepted out of the general capitulation on the 9th February, 1304. It was provided that David de Graham and Alexander de Lindsay should be banished out of Scotland for six months. Ryley's Placita, 369-70.

(*q*) Dougl. Peer., 481.

(*r*) Crawford's Peer., 336-349. Dougl. Peer., 474-560-213; Nisbet's Heraldry, App. 26; Index Diplom. Scotiæ.

thian, where he settled during the reign of David I. (*s*). William de Sinclair is said to have married a daughter of the Earl of March, by whom he had a son, William, his successor. Such were the progenitors of the Sinclairs of Roslin, who became the Earls of Orkney ; and from the same stock sprung Sinclair Earl of Caithness, Sinclair Lord Sinclair, Sinclair of Longformacus, Sinclair of Stevenson and Murkle, Sinclair of Mey, Sinclair of Barrock, and others (*t*). (II.) The Sinclairs of Herdmanston derived their more recent origin from Henry de Sinclair, who was *Vicecomes* to Richard de Moreville, the Constable of Scotland, who died in 1189 (*u*). This Henry was probably a son of the first William de Sinclair, and a younger brother of the second William de Sinclair, as Henry is a common name in the family of Roslin. Richard de Moreville gave Henry de Sinclair, his Sheriff, the lands of Herdmanstown (*x*). Richard de Moreville also gave to Henry de Sinclair two bondmen with their families, in consideration of three marks which Henry paid to Richard de Moreville, on condition, however, that the bondmen and their issue should not be removed from the lands which he held under the grantor (*y*). Henry de Sinclair was succeeded by his son Alan, who often appears as a witness with his father to the charters of the Constables, Richard de Morville, and William, his successor (*z*). Alan, the son of Henry, obtained from William de Moreville the lands of Carfrae and other estates in Upper Lauderdale, in marriage with *Matilda de Windfore* his wife, and this grant was confirmed by

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(*s*) The account of this family which is given in Nisbet's Heraldry, App., 172, and which Douglas has followed, Peerage, 529, carries back the settlement of William de St. Clair to the obscure reign of Malcolm Ceanmore without the least evidence. William, the first settler in Scotland, was the father of William who obtained a charter of confirmation from William the Lion ; and this circumstance, by placing a century between the settlement of the father and the confirmation of the son, shows clearly the common fiction of carrying every origin into the dark period of Malcolm before the dawn of record. This absurdity Douglas lengthens by forging a link to the chain of descent, a dishonest means which he often employs when he meets with difficulties arising from discordant facts. William de St. Clair, Miles, obtained the lands of Balormin from the monks of Newbotle for the yearly payment of one mark, *bonorum Sterlingorum.* Chart. Newbotle, No. 202.

(*t*) Dougl. Peerage, 112 ; Ib., 621 ; Doug. Baron., 249 ; Ib., 89 ; Ib., 250 ; Ib., 254 ; Ib., 253.

(*u*) He was also Vicecomes to William de Moreville, the Constable, who succeeded his father Richard in 1289, and died in 1296, and he is a common witness to the charters of both. Chart. Glasg., 163, 165. He is also a witness to a charter of Roland of Galloway, who became Constable on the death of William de Moreville in 1196. Chart. Kelso, No. 253.

(*x*) Diplom. Scotiæ, pl. 75. (*y*) Id.

(*z*) Chart. Glasg., 163. Chart. Antiq. Bibl. Harl. Diplom. Scotiæ, p. 75.

Roland the Constable, who died in 1200 (*a*). In this manner did the race of the Sinclairs branch out from the Anglo-Norman stem, throughout every district of North-Britain, as we have seen.

The families of Ros in the north of England and in the south of Scotland are the same, having taken their common designation from the lordship of Ros in Yorkshire (*b*). The first settlers in Scotland of this name, appear as vassals of Richard de Moreville (*c*). Godfrey de Ros obtained from Richard Moreville the lands of Stewartown in Cuningham, wherein he was succeeded by his son, James de Ros, who granted some lands in this manor to the monks of Paisley (*d*). Such were the progenitors of the Rosses of Hawkhill, of Ros, Lord Ros, of Ros of Tarbet in Cunningham, of Ros of Sanquhar in Nithsdale, and of other families having the same name in the south of Scotland; and of Rose of Kilravock, Rose of Geddes, of Rose of Home, and of others in the North. There are other families in that part of the kingdom of the same name, who derive their descent and designation from the younger sons of the Earl of Ross. Robert de Ros, who was sent to Scotland by King John, and was the common progenitor of the Rosses of Hamlek and Werk, married Isabel, the natural daughter of King William, in 1191, with whom he obtained a manor in Scotland (*e*). By her he had two sons, William and Robert. To William he left the castle and manor of Hamlek, with the patronage of several monasteries; and to Robert, he gave the manor and castle of Werk, with his manor in Scotland, which he had with

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(*a*) Diplom. Scotiæ, pl. lxxxi. The Sinclars built a chapel upon their lands of Herdmanston in Salton parish, and another upon their lands of Carfrae in Childenkirk [Channelkirk] parish; and John de Sinclair, the successor of Alan, found it necessary to grant an indemnity to the principal churches, for those chapels, and for two acres of land in the territory of Herdmanston. Chart. Dryburgh, No. 143.

(*b*) Dugdale's Baron., v. i., 545-554-5.

(*c*) They appear in many of his charters as witnesses. Godfrey de Ros was the first, and James, Reginald, and Peter, as his sons. Diplom. Scotiæ, pl. 75, 81; Chart. Glasgow, 163-165; Chart. Antiq. Bib. Harl.; Doug. Peer., 580.

(*d*) This grant was confirmed by his descendant, Sir Godfrey de Ros. Chart. Paisley, No. 65. Dominus Godfrey de Ros witnessed a charter of Walter Cumyn of Rowallan in Cuningham, at the beginning of the 14th century. Diplom. Scotiæ, pl. 79.

(*e*) "An. 1191. Will. rex. Scot. dedit filiam suam Isabel, quæfuit uxor Rob. de Brus, Roberto de "Ros apud Hadintun." Chron. Melrose, 179.

his wife (*f*). William de Ros, a descendant of this marriage, was, in 1291, one of the illegitimate competitors for the Scottish crown (*g*).

The progenitor of the family of Loudon was James, the son of Lambin, who obtained from Richard de Moreville the manor of Loudon in Cunningham (*h*). Here he settled as the vassal of Moreville, and assumed the designation *de Loudun*, according to the practice of the age (*i*). James de Loudun obtained from William de Moreville a confirmation of his father's grant (*k*). James de Loudun left an only child, Margaret, who marrying the Sheriff of Ayr, Reginald de Crawford, carried the blood and estate of the first purchaser into an ancient family of Lanarkshire (*l*). Four descents conveyed all those estates to Sir Reginald Crawford, the Sheriff of Ayr, who lost his life in the troublous year 1303, leaving Susannah, his only child, who married Sir Duncan Campbell, and thereby transferred the estates and office of this family to a new race, who continued worthily to represent the Campbells, the Crawfords, and the Lambins (*m*).

During the reign of David I., the manor of Langton, which now forms the parish in Berwickshire of the same name, belonged to Earl Henry. On it he settled several vassals from England. Of these, the chief was William de Vetereponte (*n*), on whom he conferred the greater part of Langton, while he

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(*f*) 1 Dug. Baron., 546.

(*g*) Rymer's Fœd., ii., p. 576. This competitor married Maud, one of the co-heirs of John de Vaux, and died in 1317, and was buried in the Priory of Kirkham. His seal was engraved among the other seals of the competitors by Astle, at the expense of the Antiquary Society of London, pl. iii., No. 12.

(*h*) Lambin, the father of James, had previously settled in Upper Clydesdale under David I., from whom he acquired a manor, which, from him, was denominated *Lambin-town*, and by corruption was called Lambington, which is now softened to Lamington, the name of a parish. Robertson's Index, 36.

(*i*) Sir Ja. Dalrymple's Col., Pref., lxv. James de Loudun appears as a frequent witness to the grants of Richard de Moreville. Diplom. Scotiæ, pl. 75.

(*k*) Chart. Antiq. Bibl. Harl.

(*l*) Crawford and his descendants continued to hold Loudun and other lands in Cuningham of the Constables of Scotland. Hugh, the son of Reginald Crawford, obtained in 1226 from Alan of Galloway, the heir of the Morevilles, the lands of Crosseley, Monach, and the third part of Steventun. Sir James Dalrymple's Col., Pref., lxv. As the descendants of those who represented the Galloway family, and held the high office of Constable, became forfeited during the succession war, the family of Loudun were freed from their vassalage to Overlords; and by a charter from Robert Bruce, became vassals of the crown.

(*m*) Crawford's Peerage, p. 282; Dougl. Peer., 422.

(*n*) William de Vetereponte witnessed a charter of Malcolm IV. to the monks of Paisley. Chart. Paisley, No. 8. He also witnessed several charters of William the Lion. Ib., 32; Chart.

gave a large portion to Roger de Ow, who was of an Anglo-Norman family who had settled in Northumberland (*o*). Both those persons confirmed to the monks of Kelso the church of Langton with the appurtenants (*p*). William de Vetereponte was succeeded by William, his eldest son by his first wife, Emma de St. Hilary. William the son confirmed the grant of his father to the monks of Kelso (*q*). This William de Vetereponte acquired, under King William, the manors of Boulton in East Lothian and Carden in West Lothian, which his sovereign confirmed to him (*r*). To his descendant, William de Vetereponte, Robert I. and his son, David Bruce, confirmed those several manors (*s*). A branch of the family of Vetereponte settled on the lands of Swanstoun, which were enjoyed by Nicolas de Vetereponte and his spouse Anabella, in the reign of Alexander III. (*t*). Another part of this family settled in West Galloway as the vassals of the descendants of Fergus (*u*). The Veterepontes, while they thus extended themselves far and wide, seem never to have risen to any great eminence in North-Britain.

The true origin of the ancient race of the Frasers is darkened by peculiar fables. Beyond the period of record, few of the families in Scotland, or indeed in any country, can trace their pedigrees with any certainty. The Frasers are said to have first appeared as the vassals of the Earls of Dunbar (*a*). Symon

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Glasgow, 23, 25, 27; Chart. Kelso, 385. For various notices of the Anglo-Norman family of Vetereponte in England see Rym. Fœd., v. i.; Dugdale's Monast. Angl. Dug. Baron., i., 347. The name often appears in the form of *Vipont.*

(*o*) Chart. Kelso, No. 137; Bromton, 992. The de *Ow's* assumed their local surname from *Ow* in Normandy. Ib., 1006.

(*p*) Chart. Kelso, No. 137; Ib., 458.

(*q*) Ib., No. 138. This charter of confirmation is witnessed, among others, by William de Vetereponte, junior, the son of Matilda de St. Andrew, the first William's second wife. This younger son witnessed some of K. William's charters. Chart. Cupar, No. 3. William, the eldest son, granted other lands in a different territory with appropriate privileges to the same house. Ib., 139, 140, 141. All those charters were confirmed by K. William; Ib., 143. In 1203, William, the younger, settled some disputes which he had with the same monks. Ib., 142.

(*r*) The second William de Vetereponte had a son, William de Vetereponte, who in 1213 was a hostage in England for the Scottish king. Rymer's Fœd., v. i., p. 175. He succeeded his father, and flourished during the reign of Alexander II. He was one of the *Magnates Scotiæ* who guaranteed the peace with England in 1244. Ib. 428-9.

(*s*) Robertson's Index, 79.

(*t*) Chart. Soltre, No. 13.

(*u*) Alan de Vetereponte and Ivo de Vetereponte obtained from the lords of Galloway the manors of Great Sorby and Little Sorby, which they held during the reign of William the Lion; Robert, the son of Alan de Vetereponte, also held a part of those manors. Chart. Dryburgh, No. 50-58.

(*a*) The first Fraser who is supposed to be found in charters is Gilbert de Fraser, who is said

Fraser undoubtedly enjoyed the lands of Keth in East-Lothian, even as early, perhaps, as the reign of David I. Under Malcolm IV., Symon certainly granted to the monks of Kelso, the church of Keth with some lands, and the right of pasturage with other easements (*b*). Symon Fraser had an only daughter, Eda, who married Hugh Lorens, and who with her husband, confirmed the grant of her father to the monks of Kelso (*c*). By Eda Fraser, Hugh Lorens had a daughter Eda, who married Hervey, the son of Philip the King's mareschal; and by her Hervey obtained the land of Keth-Symon, which was thus named from Symon Fraser, and enabled Hervey to form a considerable addition to his own estate of Keth-Hervey. The old grants of Symon Fraser to the monks of Kelso were now confirmed by Hervey, the son of Philip, and by John de Keth, the son of Hervey (*d*). In this manner then, was the blood of Symon Fraser merged in the blood of the Lorenses and Keiths, by the marriages of his daughter and grand-daughter. (II.) Another family of the Frasers settled on the lands of North Hales in East-Lothian, as vassals of the Earls of March (*e*). Bernard Fraser appears as the chief of this family, throughout the reign of Alexander II. (*f*). His mother was a daughter of Ness, who held the lands of Fortun in East-Lothian. His grandfather was probably Gilbert, who flourished under Malcolm IV. Bernard Fraser raised himself by his talents from being a vassal of a subject superior, to be a tenant in chief of the king. He was a frequent witness to the charters of Alexander II., as we see in the chartularies. He was made sheriff of Stirling, though not of Peebles, in 1234 (*g*). In 1237, he swore to the performance of the treaty of York (*h*). He was certainly alive in November 1247, (*i*) and he is said to have died

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to be one of the witnesses to a charter of Cospatrick to the monks of Coldstream during the reign of Alexander I. Dougl. Peer., 427, which quotes the chartulary of Coldstream. Yet as I do not see any Fraser a witness to the very early grants of the Earls of March to the monks of Durham in Smith's Bede, App., No. xx., I doubt Douglas's quotation.

(*b*) Chart. Kelso, No. 84; and see this charter in Crawfurd's Officers of State, 471. This grant was confirmed by Malcolm IV. and William. Chart. Kelso, 90-93.

(*c*) Ib., 85. Douglas pretends to find Sir Simon Fraser in a charter to the monks of Coldingham, 1184. Peer., 427.

(*d*) Chart. Kelso, 86-7: and both these charters were confirmed by Alexander II. Ib., 92.

(*e*) See the Chart. Newbotle, 101-2, 120-1; Bernard granted some lands in North Hales to the monks of Newbotle. Id.: and see Crawfurd's Officers of State, 269.

(*f*) Ib., 101. In this charter his brother Ness appears as a witness.

(*g*) Chart. of Newbotle, No. 186.

(*h*) Rymer's Fœd., i., 376; and was the only Fraser who is mentioned in this tome of the Fœdera.

(*i*) He then witnessed a charter of Alexander II. Robertson's Index, 76.

about the year 1250, an aged and a respectable person (*k*). This eminent man seems to have been succeeded by his relative, Gilbert Fraser, who was the sheriff of Traquair, during the reign of Alexander II. and his successor (*l*). This eminent sheriff was the parent of several sons, who distinguished themselves during the subsequent age: Symon, the eldest; Andrew, who was sheriff of Stirling in 1291 and 1293; and William, who rose to be chancellor and bishop of St. Andrews, 1279, during an eventful age (*m*). Symon on the death of his father, became sheriff of Peebles from 1263 to 1266 (*n*). He possessed the lands of Oliver-Castle, Needpath, and others in Tweeddale. In 1284, Symon was one of the *Magnates Scotiæ* who engaged to support the daughter of Alexander III. on the throne of Scotland (*o*). In 1290, as a Baron, he sat in the numerous parliament at Brigham (*p*). In 1291 he was a nominee of Baliol, for illustrating his claim to the crown (*q*); and on the 12th of June, 1291, he swore fealty to Edward I., as superior lord of Scotland at Norham (*r*). Symon Fraser, *the father*, died soon after, leaving a son Symon, the heir of his property and power, one of the most distinguished statesmen and gallant soldiers, during a struggle when it required all the wisdom and all the valour of Scotland to maintain her independence against such a prince as Edward I. (*s*). (III.) It is now time to advert to a very ancient race of Frasers, who were certainly the relations, if not the progenitors of this branch of a respectable family. Kylvert, or rather Gilbert Fraser, possessed the lands of Hales in East-Lothian, under the Earls of Dunbar, during the reigns of Mal-

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(*k*) Douglas Peer., 428: Bernard Fraser does not appear in the conflict of parties which ensued soon after the accession of Alexander III. in 1249. Rymer's Fœd., i., 566.

(*l*) Chart. Newbotle, No. 130. Gilbert was also sheriff of Traquair, while William was bishop of Glasgow from 1233 to 1258. Chart. Glasgow, 275-9. He continued sheriff of Traquair in the reign of Alexander III. as late as 1258. Ib., 445.

(*m*) Keith's Bishops, 13. The bishop's seal is engraved by Astle, pl. 3, No. 13, which shows by the six *frais* his relationship with the Frasers of Tweeddale.

(*n*) Chart. Soltre, No. 8; Chart. Kelso, 189.

(*o*) Rymer's Fœd., ii., 266.

(*p*) Ib., 471.

(*q*) Ib., 553.

(*r*) Ib., 567. In the documents of that age Symon Fraser was denominated *Pater;* having two sons who began to appear upon the stage: Symon, and Sir Alexander Fraser, who became chamberlain of Scotland under Robert Bruce. Douglas Peer., 428; Crawfurd's Peer., 270; Crawfurd's Officers of State, 272-4.

(*s*) As the sword of Symon Fraser had been felt, the axe was employed to avenge that sensation. Crawf. Officers of State, 272. He left no son to retaliate his wrongs on the son of Edward I. His two daughters carried his blood and property into the families of the Marquis of Tweeddale and of the Earl of Wigton. Dougl. Peer., 428.

colm IV. and William, as we know from the chartularies (*t*). He left several children. Oliver, his eldest son, flourished with Joceline the bishop of Glasgow, from 1175 to 1199 (*u*). It was he, no doubt, who built Oliver-Castle in Tweeddale, which became famous in after-times as the seat of the Frasers (*x*); but as he died without issue, his nephew, Adam, enjoyed his estates. The second son of Gilbert was Udard Fraser, whose posterity became illustrious in Peebles-shire. Gilbert left a son that was the father of Bernard, who, as we have seen, was the first of the Frasers that rose to eminence under Alexander II. Gilbert left also a daughter, Maria, who marrying Ness, had for her portion that part of North-Hales which was claimed by Bernard Fraser as his heritage and acknowledged by her during her widowhood in the court of their superior lord, the Earl of Dunbar, to be Bernard's right (*y*). Adam, the son of Udard, inherited as well the property of his father as the estates of Oliver (*z*). Laurence, the son of Adam, enjoyed his father's lands, and confirmed not only his charters, but the grants of Bernard Fraser (*a*). He left a son Laurence, who lived during the succession war, and when he died left a daughter who carried his estate of Drummelier into the family of Tweedie, who long enjoyed it in a state of rude splendour. Thus have we seen the blood, the estates and names of the distinguished Frasers, both of Oliver-Castle and of Drummelier in Tweeddale, merged about the same time in several families who rose upon their extinction. Yet, Fraser of Fruid, in Tweedsmuir parish, still remained in that southern district (*b*). (IV.) Hitherto the Frasers were

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(*t*) Douglas Peer., 427. This is the same Kylvert or Gilbert whom Douglas carried back to the age of Alexander I.; but the charters which state the pedigrees of his issue evince that he must have lived under Malcolm IV., and after his demise in 1165. Chart. Glasgow, p. 53. He seems to have possessed considerable estates in Tweeddale as well as in Lothian, and hence Tweeddale became the great seat of the Frasers during the twelfth and thirteenth centuries.

(*u*) Chart. Newbotle, No. 81.

(*x*) The earliest notice of *Oliver-Castle* is in Chart. of Glasgow, p. 186.

(*y*) Chart. Newbotle, No. 101-2.

(*z*) Ib., No. 82-4-5.

(*a*) Ib., 86. Laurence flourished at the middle of the thirteenth century, and was designed Lord of Drummelier. Crawf. Officers of State, 270-1.

(*b*) On the 14th of June, 1291, Simon Fraser swore fealty to Edward I. Rym. Fœd., ii., 567. On the 8th of July, 1291, Richard Fraser swore fealty to Edward in the chapel of the Castle of Edinburgh. Ib., 569. On the 23rd of July, 1291, Simon Fraser swore fealty to Edward in the monastery of Lindores. Ib., 570. On the 7th of July, 1296, swore fealty to Edward at Fernel in Forfarshire, William Fraser, the son of the late Alexander Fraser. 3 Prynne, 651. On the 28th of August, 1296, at Berwick, swore fealty Alexander Fraser, Knight. Ib., 653. It was he who probably married Mary Bruce after the death of Sir Nigel Cambel. Alexander Fraser of the county of Peebles followed their example. Ib., 654. Bernard Fraser and William Fraser of the confined to the south, but during the reign of Robert I. they spread northward into the Mearns, into Aberdeenshire and also into Inverness-shire, having Sir Alexander Fraser the chamberlain for their chief (*c*). From this stock branched off Fraser, Lord Salton, Fraser Lord Fraser, and Fraser Lord Lovat (*d*).

Fiction in the form of a peerage writer is continually darkening the clear, without clearing the dark. This truth is abundantly illustrated by the absurd accounts which have been left us of the powerful family of the *Cumyns*, who came from Northumberland into Scotland during the reign of David I. (I). William Cumyn, a younger son of this family, who had been bred as *a clerk* by Gaufrid, the bishop of Durham, and chancellor to Henry I., was appointed chancellor to David I. in 1133, and continued in this office till 1142, when he was nominated bishop of Durham (*i*). (II). The chancellor's nephew, Richard Cumyn, the son of his elder brother, who inherited the family estate in Northumberland, obtained from earl Henry, the son of David I., the manor of Linton Roderick in Roxburghshire, which was the first possession of the Cumyns in North-Britain. The church of this manor with half a carucate of land he gave to the monks of Kelso (*k*). Richard Cumyn, as he witnessed several charters of Malcolm IV., who demised in 1165, and William, who succeeded him, not only flourished at that epoch, but throughout many years of William's reign. Richard Cumyn, who died about the year 1190, married the Countess Hexild, who appears to have survived him. Richard Cumyn, who was the principal minister of William the Lion, was taken prisoner with

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county of Edinburgh also swore fealty. Ib., 656. Andrew Fraser of Fife swore fealty. Ib., 662. Sir Richard Fraser of the county of Dumfries swore fealty. Ib., 662 ; and Sir Richard Fraser of the county of Stirling swore fealty. Ib., 663. This specification evinces that the sword and the axe had spared to Scotland a numerous race of the Frasers.

(*c*) Crawf. Off. of State, 272-5. Robertson's Index, p. 116.

(*d*) Dougl. Peerage, p. 606, 273, 427.

(*i*) Officers of State, 7 ; Anglia Sacra, v. i., p. 709-10. William Cumyn was not the worse chancellor of Scotland that he had been bred a clerk by the chancellor of Henry I. of England. The chancellor of Scotland had a nephew William, a young knight, *juvenis miles*, who actively engaged in his uncle's contest for the see of Durham, and who died in 1144. On the settlement of this contest it was agreed that Richard, the other nephew of William Cumyn, should hold the whole honour of North Allerton of the adverse bishop. Hagustald, 273-4 ; Anglia Sacra, i., p. 712 ; Hutchinson's Hist. of Durham, i., p. 160-62-63.

(*k*) Chart. Kelso, No. 273. This grant was made for the usual considerations of that age, for the soul of *his Lord, Earl Henry*, who died in 1152, for the soul of his own son John, who had been buried among them ; and the witnesses of his bounty were Hexilda his wife, and Od, his son.

his master at Alnwick in 1174 (*e*). In the subsequent year he was one of the great men who became securities, that William would fulfil the terms of his liberation (*f*). As Richard enjoyed the estates of his fathers in Northumberland, he was bound to attend the judges itinerant there, and to perform other services. In 1176 for not attending those judges, he was fined a hundred pounds (*g*). Richard Cumyn appears to have acted as justiciary of proper Scotland from 1178 to 1189 (*h*). Richard Cumyn died after an active and important life about the year 1189, leaving considerable estates; and by the Countess Hexild, William, their son, who acted a still greater part on a more conspicuous stage. William Cumyn, if he died in 1233 at the age of seventy, must have been born in 1163 (*i*). From his father Richard he inherited not only his estates in Scotland, but also his lands in Tindale, within Northumberland (*k*). William Cumyn appears as a witness to the charters of William the Lion during the last five-and-twenty years of his reign (*l*); but he first

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Id. This grant was confirmed by Malcolm IV. in 1159. Richard gave a carucate and a half of land in Staincroft to the monks of Rieval, which Hexilda, the Countess of Ethehetela, his relict, confirmed. Eccles. Hist. Yorkshire, 363; see her charter in Dug. Monast., i., p. 733. John Cumyn, the competitor for the crown, stated his pedigree and pretensions, as in Rymer's Fœd., ii., 577, thus:

(1.) Bethock, the daughter of K. Donal-bane, who died 1097.
(2.) Hexild, her daughter, married Richard Cumyn,
(3.) Wm. Cumyn, their son.
(4.) Richard Cumyn, their son's son.
(5.) John, their son's son's son.
(6.) William, (1):—John (2), who claimed as heir of William, his elder brother.
John Cumyn, who was slain by Robert Bruce, 10th February, 1306.

(*e*) Hoveden, 539.

(*f*) Ib., 545; Rymer's Fœd., i. 39, 40.

(*g*) Dug. Baron., i., p. 685, which quotes the Pipe Roll of the 22 Hen. II. From the amount of this fine, we may suppose that the attachment of Richard Cumyn to K. William was recollected by the English judges.

(*h*) Diplom. Scotiæ, pl. 26; and Chart. Antiq. Bibl. Harl.

(*i*) If he died at the age of 65, he must have been born in 1168.

(*k*) Astle's MS. Diplom. Scotiæ, 24; Ryley's Placita, p. 353.

(*l*) See Chart. Melrose, No. 4; Chart. Arbroath, No. 48, 51, 63, 105, 107, 122, 125; Chart.

distinctly appeared at the age of thirty-seven, in 1200, as one of the envoys whom William the Lion sent to King John, who had just ascended the throne of the gallant Richard (*m*). Before this time William Cumyn married a lady, whose parentage and name have wholly escaped the genealogists, though circumstances and charters attest the fact (*n*). He acquired from William the Lion, whom he served, the manor of Lennach [Lenzie] in Dumbartonshire, as well as the lands of Kirkintilloch, though perhaps by a different title (*o*). He appears to have been sheriff of Forfar in the beginning of the thirteenth century (*p*). In 1209, when he had become justiciary of proper Scotland, he was sent with the bishop of St. Andrews and others, on an embassage to England (*q*). About this time died Fergus, the ancient Earl of Buchan, whose only child Margery, William Cumyn was destined to marry. After the decease of Fergus, Margery continued to act as Countess of Buchan (*r*). William Cumyn, by marrying Margery about the year 1210, became Earl of Buchan (*s*). In 1212, Guthred, having as a partizan of MacWilliam, raised a rebellion in Moray, was brought to condign punishment by William Cumyn,

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Glasgow, 37, 45, 213 ; Chart. Cupar, No. 6, 14 ; Chart. Morav, 69, 72, 74 ; Diplom. Scotiæ, pl. 28 ; Astle's MS. Diplom. Scotiæ, No. 4.

(*m*) If William Cumyn were born in 1168, he was only thirty-two when he was sent on this embassage.

(*n*) Not long after he became Earl of Buchan, by marrying the Countess, his second wife, William Cumin granted to the church of Glasgow a stone of wax yearly, and his charter was witnessed by *Richard* Cumyn, his *son*. Chart. Glasgow, 387. This Richard, who was now a man, must have been the *son* of William by a prior marriage, as Wyntown intimates. This notice corresponds with the record of the pedigree in Rymer, when John Cumyn claimed the crown through Richard, Earl William's *eldest son*. This charter must have been granted only a few years after his marriage with the Countess of Buchan, for one of the witnesses to it is Adam, a brother of her father Fergus, the Earl. Thus Wyntown, Book viii., ch. vi., is supported in his intimations by charter testimony.

(*o*) Crawfurd's MS. Col. This grant was confirmed to him by Alexander II. Id.

(*p*) Charter by William to the monks of Aberbrothock. 2 Dug. Monast., 1053.

(*q*) Fordun, lib. viii., cap. 70. When a peace was afterwards made with England, William Cumyn the justiciary swore, on the part of the king of Scots, for the observance of it. Ib., 71.

(*r*) Margery, the Countess of Buchan, granted to the monks of Arbroath the patronage of the churches of Turfred [Turrif], of Inverugie, of Strathechin, and of Rathen in Buchan, and this donation was confirmed by King William between 1211 and 1214. Chart. Arbroath. To the monks of St. Andrews she granted half a mark of silver yearly from her firm of Inverure. Chart. St. Andrews, 379.

(*s*) As Earl of Buchan, William Cumyn witnessed a charter of William the Lion at Elgin on the 17th of August, 1211. Chart. Arbroath, No. 98.

the justiciary of the north (*t*). In 1218, he exercised his munificence by founding in Buchan the abbey of Deer (*u*). He and the Countess Margery, in imitation of their father, Fergus, made some splendid donations to the monks of Arbroath (*x*). In 1220, he witnessed with other Scottish nobles the marriage-contract of Joan, the princess of England, with Alexander II. (*y*). William died after an illustrious life in 1233 (*z*). (III.) It is now proper to trace the several sons of this great Earl according to their seniority. He had by his first wife, Richard and Walter, and by his second, Alexander Cumyn, who became Earl of Buchan, with two younger sons, Fergus and William (*a*). Richard, who is the second Richard of the competitor's pedigree, flourished, whatever peerage writers may say, during the reign of Alexander II., and enjoyed his father's lands except what descended from the Earl of Buchan (*b*). In 1244, he appears conspicuous with his relation, Walter, the Earl of Menteith, and Alexander, the Earl of Buchan, and other Scottish statesmen, as guarantees of the treaty with England (*c*). Richard does not again appear so

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(*t*) Lord Hailes' An., i. 139. William Cumyn, as justiciary, crushed another rebellion of the same clan in 1229. Ib. 150.

(*u*) Chron. Melrose; Chart. Morav.

(*x*) In addition to what the Countess had given to this monastery before her marriage, she and her husband granted to it the patronage of the church of Buthelny, with all its pertinents; and a toft in the village of Buthelny, with common of pasture and other easements. Chart. Arbroath, No. 163-4. To the monks of Dryburgh, William Cumyn, the Earl of Buchan, with consent of his Countess Margery, confirmed the grant of the church of Kilrenny in Fife, which had been made by the Countess of Ada, the mother of Malcolm IV., and William the Lion. Chart. Dryburgh, 9, 11. To the monks of St. Andrews he confirmed, with consent of his Countess, the grant of their vassal Merleswan, the son of Colban, of the lands of Kenmuck in Kennauchy parish, Fife. Chart. St. Andrews, 378.

(*y*) Rymer's Fœd., i. 241, 252. In this last record he is called Willielmus Cumin Com. de Buch. justic. Scotiæ, while Walter Olifard, in the same record, is called justiciarius Laodoniæ.

(*z*) An. 1233, ob. Will. Cumin comes de Buchan, abbatia de Der fundator. Chron. Melrose, 201.

(*a*) Chart. Aberdeen, 589; Chart. St. Andrews.

(*b*) Richard Cumyn appears as a witness to several charters of Alexander II., with William, the Earl of Buchan, his father, and with William de Bosco, the chancellor, who resigned in 1226. Chart. Arbroath, No. 143, 148. In one of these Walter Cumyn, who became Earl of Menteith, is also a witness, and appears after Richard as his younger brother. *Richard* again appears as a witness to a charter of Alexander II. in 1240, and with him is a witness, Alexander Cumyn, his half-brother, who had not then succeeded as Earl of Buchan, as his mother the Countess was then alive. Chart. Kelso, No. 181.

(*c*) Rymer's Fœd., i. 428. In this State Paper Walter and Alexander, his younger brothers, are named before him as Earls, while he ranks only with the *Magnates*.

prominent, and he probably died in 1249, at the demise of Alexander II. He was succeeded by his son, John Cumyn, who immediately entered into the faction of the Cumyns during the minority of Alexander III. (*d*). The Earl of Menteith, the Earl of Buchan, and John Cumyn, their nephew, were all removed in 1255 from the councils of the infant Alexander, by the influence of Henry III. of England (*e*). In 1257, they overpowered their opponents, obtained possession of the king and queen, and governed Scotland by the weight of their talents, and the influence of their family (*f*). They created a new office for John Cumyn, who was made justiciary of Galloway (*g*). He, however, continued an active member of this powerful faction. John Cumyn, with his uncle Alexander, the Earl of Buchan, were two of those Scottish statesmen, to whom the English king gave his oath that he would restore his daughter, the Scottish queen, with her child (*h*). John Cumyn was present with Alexander III. when he held his court at Jedburgh in 1261 (*i*). In 1264, John Cumyn, John Baliol, and Robert Bruce, led a body of Scots to the aid of king Henry III. against his Barons (*k*). In 1268, some of his retainers were slain by the citizens of York. To pacify John Cumyn, the two kings, Henry III., and his son-in-law, Alexander III., interposed, when the citizens paid him three hundred pounds, and agreed to maintain two priests, who should pray for the souls of the deceased upon *Ouse-brigg*, where this bloodshed probably happened (*l*). In 1273, he engaged to protect his eldest son, William, who had

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(*d*) The peerage writers, as they knew nothing of Richard Cumyn, brought forward his son John during the reign of Alexander II., and gave him the title of Badenach long before he possessed it. They confounded him with John Cumyn, who married the Countess of Angus, and died in France during 1242, leaving a son, who died an infant in the following year. Chron. Melrose.

(*e*) Rymer's Fœd., i. 566.

(*f*) Ib., 619; Chron. Melrose, 221; Mat. Paris, 644.

(*g*) Rymer's Fœd., i. 653. This was the first time, in 1258, that we hear of a justiciary of Galloway, though it was not the last. He had property in Nithsdale. In 1250 John Cumyn, knight, as proprietor of Dalswinton and Duncol, granted to the monks of Melrose a right of passage through those lands. Chart. Melrose, No. 108. After the slaughter of John Cumyn the younger by Robert Bruce at Dumfries in 1306, Dalswinton was given by Bruce to Walter Stewart, and Duncol to Robert Boyd. Robertson's Index.

(*h*) Rymer's Fœd., i. 715.

(*i*) Chart. Glasgow, fol. 59.

(*k*) Dug. Baron., i. 658.

(*l*) Id. It is this John Cumyn who is characterized by Fordun as "vir ad rapinam et temeritatem "expeditus." Lib. x., c. x. This transaction at York seems to justify this character. He was popularly called *Red* John Cumyn, his son *Black* John Cumyn, and his grandson, who was slain by Bruce, *Red* John Cumyn. In 1268 John, the son of John Cumyn, was knighted at Berwick by Alexander III. "Johannes, filius Johannes Comyn, ab ipso rege Alexandro baltheo præcingitur militari." Ford. lib. x., c. xxiv.

married a daughter of the Countess of Menteith, and who was involved in an unavailing struggle for the Earldom of Menteith. John Cumyn died soon after, leaving several sons. His eldest son was William Cumyn, who, besides the one half of the lands of Menteith, enjoyed with other estates the manor of Kirkintilloch, which had come down from Earl William, through his eldest son Richard to his son John, and from him to his eldest son William, who was distinguished from his manor of Kirkintilloch (*m*). He appeared in the numerous parliament at Brigham in March 1290, as *Seygnur* de Kirkintulach (*n*). William died before the 3rd of June 1291, when his next brother John who was distinguished by the title of Badenach, claimed the crown through William, who had died without issue (*o*). John Cumyn of Badenach now became one of the most potent men in that age. He was present in 1281 at the convention of Roxburgh, when the marriage of Margaret, the daughter of Alexander, was agreed on (*p*). In 1284, he was one of the *Magnates Scotiæ*, who engaged to maintain the title of the daughter of Margaret, on her grandfather's demise (*q*). In 1286, he was chosen one of the six guardians after that sad event took place (*r*). He was one of those who treated with Edward I., about the marriage of the infant queen, in 1289 (*s*). He appeared as guardian in the parliament of Brigham in 1290 (*t*). In August of this year, he went with other envoys to England, to negotiate with Edward the marriage of the Scottish queen (*u*). In 1291, John Cumyn, who was now distinguished as *senior*, Lord of Badenach, acknowledged the superiority of the English king (*x*); and he soon after gave in his claim to the crown as heir of Donald-bane, whose family had been out of possession since 1097 (*y*). He supported the claims and government of

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(*m*) In 1290 William Comyn of Kirkintilloch granted a release to Hugh Dalyel, the sheriff of Lanark, for twenty marks. Chart. Antiq. Bibl. Harl. Astle has engraved the seal which is appendant to this release, pl. 3, No. 4; he has the appropriate device of the Cumyns, the three garbs, with an additional difference of five crosses, which may be the quartering of the lady whom he married.

(*n*) Rymer's Fœd., ii. 471.

(*o*) Ib., 552-577. After William's death Kirkintilloch came by descent to John of Badenach, and from him to his son John, who was slain by Bruce. After this event, and the subsequent forfeiture, Robert Bruce granted the manor of Kirkintilloch to Malcolm Fleming, one of his strenuous supporters. Robertson's Index, p. 8. William and John had two younger brothers, Alexander Cumyn, who was taken prisoner at the battle of Dunbar, and Robert, who was taken with him. Ib., 776-728.

(*p*) Ib., ii. 1082. (*q*) Ib., ii. 266. (*r*) Fordun, lib. xi., cap. i.

(*s*) Rymer's Fœd., ii. 431. (*t*) Ib., 471.

(*u*) Ib., 488-9. (*x*) Ib., 552.

(*y*) Ib., 577-8. He withdrew his pretensions as unattainable. Ib., 588.

Baliol, as Wyntown intimates, and record attests (z). In 1294, John Cumyn was summoned by Edward I. as superior Lord of Scotland, to attend him into Gascony (*a*). In 1297, John Cumyn, senior of Badenach, became security for his son John Cumyn, and for his brothers Alexander and Robert, and others who were released by Edward on condition of their serving him in France (*b*). He was still alive, though less active, in November 1299 (*c*). He seems soon after, to have found repose, however, from the turmoils of ambitious life, at his castle of Lochindorb, says Wyntown. He had married *Margery*, the *sister* of king John Baliol (*d*), by whom he now left a son, John, who had long acted a conspicuous part (*e*). In 1298 he was chosen, with general consent, one of the guardians of Scotland in the name of Baliol (*f*). In February 1303, John Cumyn, the guardian, with the aid of Symon Fraser, defeated successively three divisions of the English army on the same day, near Roslin (*g*). In 1303 he assembled his forces, for the protection of Stirling Castle, but he was obliged to retire before the superiority of the English king. On the 9th of February, 1304, he entered into a capitulation with Edward I., by which he saved his own followers, but sacrificed the most strenuous defenders of his country (*h*). In 1305, he was fined three years rent of his estate, and ordered to retire from the kingdom, though this last condition of his pardon was released (*i*); and on the 10th of February 1306, he was slain at Dumfries by Robert Bruce (*k*). He left by Joan, one of the sisters and co-heirs of the Earl of Pembroke, a son and two daughters, who found refuge in England. His son John died without issue in 1325; and his daughters, Joan and Elizabeth, carried his blood and his wrongs into other families (*l*); thus, by the fatal stroke of Bruce, was blasted the elder branch of the Cumyns! (III). We are now to trace briefly, Walter, the second son of William Cumyn, the Earl of Buchan, by his first wife (*m*). As Walter died aged, in 1258, he must have been born about the year 1190. He first appeared conspicuously with his father and other nobles, at the marriage of Joan, the princess of England, with Alexander II. at York, in 1220 (*n*). He now witnessed many transactions of Alexander II. (*o*). By his own conduct and his father's influence he acquired, from the grant of Alexander II. before the year 1230, the vast country of Badenach, which was then in the crown (*p*). He acquired it about the time that Gillespoc's rebellion in Moray was crushed by William Cumyn, the Earl of Buchan, in 1229. It is highly probable that Gillespoc forfeited Badenach upon that occasion; and that the influence of the Earl of Buchan obtained it for his younger son of his first marriage. Nor can there be the least doubt whether he were the same Walter Cumyn, who became Earl of Menteith, by marrying the Countess in her own right (*q*). He thus became Earl of Menteith, before the 3rd of February

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(z) Chart. Glasgow, 407.

(*a*) Rymer's Fœd., ii. 643.

(*b*) Alexander Cumyn and Robert Cumyn, the younger brothers of John Cumyn of Badenach, with John Cumyn his son, were taken prisoners at Dunbar in April 1296. They were all three liberated on the 30th July 1297, on condition of serving the English king in France. Rymer's Fœd., ii. 776. While they were prisoners Edward I. issued a precept on the 4th September, 1296, to his Lieutenant in Scotland, to assign 30 marks of land of legal extent to Eva, the wife of Alexander Cumyn of Badenach. Ib., 728. The Cumyns of Altyre, and other families of this name in Moray, derive their descent from Robert Cumyn, the younger brother of John Cumyn of Badenach.

(*c*) Rymer's Fœd., ii. 859, wherein his son is called John Cumyn, *filius*.

(*d*) Crawford's Peerage, 30: Ruddiman's Dissertation, 115, which quotes the Chartulary of Arbroath, and Fordun, the oldest and best historian of Scotland in ancient times.

(*e*) In March 1296, John Cumyn, the younger of Badenach, was one of the leaders of the Scottish army which entered Cumberland. Mat. Westm., 427; Walt. Hemingford, t. i., p. 87. He was taken prisoner at Dunbar in April 1296. W. Hemingford, c. i., 97. While he was a prisoner Edward I. ordered 200 marks of land in Scotland to be assigned to Johanna his wife. Ayloffe's Calendar, 114. He was released in July 1297, with his two uncles, as we have seen, on condition of serving the English king in France; and upon this occasion he engaged to give his son John as a hostage. Rymer's Fœd., ii. 776. He now obtained from Edward a writ for the release of his lands of Badenach. Ayloffe's Calendar, 116. In June 1298, he joined Wallace, and he deserted him soon after on the field of Falkirk. W. Hemingf., t. i., 166; Trivet, 314.

(*f*) Fordun, lib. xi., cap. xxxiv.: Rymer, ii. 859.

(*g*) Fordun, lib. xii., cap. ii.

(*h*) Ryley's Placita, 369-70.

(*i*) Rymer, ii., 969. (*k*) Fordun, lib. xii., cap. vii.

(*l*) Dug. Baron., i., 686; yet Douglas says in the face of record that he died without issue. Peerage, 59.

(*m*) *Walter, the son of William Cumyn,* granted a stone of wax or four shillings to the monks of Scone, to be received yearly at Michaelmas, "de Camera mea;" Chart. Scone, No. 85. As this grant was made during the reign of Alexander II. under such circumstances, it fixes his filiation with sufficient certainty when coupled with other notices.

(*n*) Rymer's Fœd., i., 241.

(*o*) On the 26th of December, 1223, he witnessed a charter of Alexander II. with the Earl of Buchan. Chart. Arbroath, No. 141-2; and the same chartulary throughout.

(*p*) See Chart. Moray, p. 50-1, a *compositio* which was made before 1230 between Walter Cumyn and Andrew the bishop of Moray, about the manorial rights of the lordship of Badenach. Yet the historians and peerage writers of Scotland know nothing of this important fact, though it be thus witnessed by record. They constantly consider John Cumyn, who was the son of John and the grand-nephew of Walter, and who was also the competitor for the crown, as the first lord of Badenach. Dougl. Peerage, 58; and even Lord Hailes retails this fiction in his annals.

(*q*) In the same chartulary, p. 84-5, there is another *compositio* between the same parties respecting the same country, which is dated in 1234, and which designates the lord of Badenach as "Walterum Cumyn comitem de Myneteth." Thus is the *identity* ascertained!

1231 (*r*). As Earl of Menteith, he witnessed many charters of Alexander II., as we know from the chartularies (*s*). Walter, the Earl of Menteith, with other Scottish nobles, swore to maintain the agreement between the Scottish and English kings, which they entered into at York in September 1237 (*t*). After the death of his father, William the Earl of Buchan, Walter the Earl of Menteith, soon rose to be the most influential man in Scotland ; owing as much to the strength of his talents, as the support of his family and the number of his followers, the vassals of Menteith and of Badenach. He displayed his wisdom and authority at the coronation of Alexander III. in 1249. Objections were raised to the performance of that ceremony ; but Walter, the Earl of Menteith, seeing the danger of civil commotion, insisted with decisive influence, that the bishop of St. Andrews should knight and crown the infant son of his benefactor. The Earl of Monteith was now regarded as the chief of the Cumyn faction, who had to defend the rights of Scotland against the insidious arts of Henry III. (*u*). During the struggles of that minority, Menteith and his party were several times displaced and restored, till they finally prevailed in 1257 (*x*). In the subsequent year, this powerful faction lost its head by the death of the Earl of Menteith (*y*). It was said in England, that this great person died by a fall from his horse ; it was reported in Scotland, that he had been poisoned by his wife. From the intimations of both those stories, we may suppose that he died suddenly, and perhaps without any settlement of his affairs. He certainly died without male issue, and probably without any issue, though Douglas assigns him two daughters (*z*). The lordship of Badenach and his other lands descended to John, the son of Richard Cumyn, the Earl of Menteith's eldest brother, who was then dead ; and from John those estates descended to his eldest son William, and through him to his second son, John Cumyn, the competitor for the crown and the guardian of Scotland, who was long remembered as *black* John Cumyn, the lord of Badenach (*a*). Earl Walter's widow, who, indeed, was Countess in her own right, and who must have been well

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(*r*) He on that day, as Earl of Menteth, witnessed a charter of Alexander II. to the monks of Balmerinach. Chart. Balmerinach, No. 1 ; Dug. Monast., ii., 1056.

(*s*) Chart. Scone, No. 50 ; Chart. Cupar, No. 19 ; Chart. Arbroath, 140 ; Chart. Moray throughout.

(*t*) Rymer's Fœd., i., 376.

(*u*) Chron. Melrose ; Rymer's Fœd., i., 566.

(*x*) M. Paris, 644-660 ; Chron. Melrose ; Rymer's Fœd., i., 670.

(*y*) An. 1258, obiit Dom Walterus Cumin comes de Meneteth. Chron. Melrose. Fordun in stating the same event calls him "comes *veteranus* de Meneteth." Lib. x., cap. ii.

(*z*) Dougl. Peerage, 473.

(*a*) His son, who was slain by Bruce in 1306, was popularly called *Red* John Cumyn.

stricken in years, married in 1259, John Russel, an English knight, and entailed on her family, by this misconduct, a litigation which endured a quarter of a century. Such was the grievous end of Walter Cumyn, the illustrious Earl of Menteith! (IV.) We are now to advert to the male issue of William, the Earl of Buchan, by Margery the Countess of Buchan, who survived her husband for some time, and confirmed the grants of her father to the monks of Arbroath (*b*). William, the Earl of Buchan, was succeeded in the peerage, after the decease of his widow, by his son Alexander (*c*). The son of Margery, the Countess, confirmed to the monks of Arbroath the donations of his grandfather, Earl Fergus, which had been confirmed by his mother (*d*). Alexander, the Earl of Buchan, acted a conspicuous part on the troubled stage of his country during the busy reigns of Alexander II., and his successor, Alexander III. He was one of the guarantees of the peace with England in 1244 (*e*). He was appointed justiciary of Scotland in 1251; but, as one of the Scottish party who were obnoxious to Henry III., he was removed from that high trust in 1255 (*f*). He was restored, however, in 1257, to the office of justiciary, which he held till his death in 1289. In the midst of those contests for power, Alexander, the Earl of Buchan, married Elizabeth, the second daughter of Roger de Quinci, the Earl of Winchester, and constable of Scotland (*g*). Alexander, the Earl of Buchan, was one of the *Magnates Scotiæ* who entered into a treaty with the Welsh in 1258 (*h*). On the death of the Earl of Win-

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(*b*) Chart. Arbroath. She also confirmed the grants of her vassals to the monastery of St. Andrews. Chart. St. Andrews, 380-1. She was certainly alive on the 3rd August, 1236, three years after the decease of her husband. Chart. Arbroath, No. 1. She was probably alive on the 18th July, 1240, when her eldest son is called simply *Alexander Cumyn*, in a charter of Alexander II., which he witnessed at Lanark. Chart. Kelso, 181. She was probably dead in 1244, when her eldest son and heir appears as one of the guarantees of the peace with England, and is designed *Alexander Earl of Buchan.* Rymer's Fœd., i. 428. Fordun elongates her life till 1267.

(*c*) Douglas, whose account of the Earls of Buchan is full of ignorance, falsehood, and presumption, interpolates William in the place of Alexander as the heir of the earldom after the death of the Countess Margery, in opposition to the whole chartulary of Arbroath. Not so Crawford, who writes soberly on this subject. Peerage, 46. William, the Earl of Buchan, left indeed two younger sons, William, who is seen in the chartulary of St. Andrews, and Fergus, who appears in the chartulary of Aberdeen, 221, 589, with some daughters, if we may believe a peerage writer. Douglas Peerage, 92. He appears to have left a daughter, who was married to the Earl of Mar, and died in 1268. Fordun, lib. x., c. xxv.

(*d*) Chart. Arbroath. (*e*) Rymer's Fœd., i. 428. (*f*) Ib., 566.

(*g*) On the decease of Alexander the Earl of Buchan in 1289, his son John was proved to be thirty years of age and more. Escheat Rolls, 18 Edw. I. Dug. Bar., v. i., p. 685.

(*h*) Rymer's Fœd., i., 653-670.

chester in 1264, without male issue, the Earl of Buchan obtained, in right of his wife, a full share of her father's estates in Galloway, and in other countries; and in 1270, he acquired from the good will of Margaret, the Countess of Derby, his wife's eldest sister, the office of constable of Scotland, which she held after her husband's decease (*i*); and now resigned into the King's hands, for the purpose of conferring it on her brother-in-law, the Earl of Buchan (*j*). He thus enjoyed the two great offices of justiciary and constable for near twenty years before his death. The Earl of Buchan was one of the *Magnates Scotiæ* who engaged to maintain the succession of the princess Margaret to the crown, on the demise of her grandfather (*k*). In 1286, he was appointed one of the six guardians of Scotland, during the interegnum which followed the sad demise of Alexander III. In the midst of the subsequent intrigues for the succession, Alexander the Earl of Buchan, died in 1289; leaving his son, John, his pre-eminence, his offices, and his struggles (*l*). John sat in the Parliament at Brigham, in 1290, as Earl of Buchan (*m*). In the subsequent year, he was appointed by Baliol one of his nominees; and owing partly to his relationship, perhaps as much as to his principles, he adhered steadily to Baliol and Edward, till he was obliged to flee before the fortune of Bruce (*n*). Thus fell, after many a crash, the house of Cumyn, the most eminent in Scotland, during the active reigns of Alexander II. and Alexander III., involving several smaller families of Cumyn in its fall (*o*).

(*i*) William de Ferrers, Earl of Derby, died in 1254. Dug. Bar., v. i., p. 262. Roger de Quinci died in 1264. She had a son at the time of her resignation of that high office, which was probably demanded by the Scottish king, who may not have wished that such an office should have been held either by a widow or an infant who resided in England.

(*j*) Ayloffe's Calendar, 336.

(*k*) Rymer's Fœd., ii., 266.

(*l*) The seal of John Cumyn, the son of Alexander, Earl of Buchan, is engraved by Astle, pl. 3. No. 15. It bears the armorial device of the *three garbs*, the appropriate insignia of the Cumyns.

(*m*) Rymer's Fœd., ii., 471.

(*n*) He measured his sword with Bruce's at the battle of Inverurie, in 1308, when he was defeated, and compelled to seek shelter in England. His great offices and vast estates were now forfeited. He had lost his son John in 1313, and whatever right he possessed when he died in 1329, went with female heirs into other families, who had to fight for their pretensions.

(*o*) Lord Hailes repeats from Fordun, under the year 1255, that there were then in Scotland no fewer than thirty-two knights of the name of Cumyn: but perhaps they were both imposed upon by the doubtful meaning of the term *miles*, which signified an armed retainer as well as a *knight*. There can, however, be no doubt that the stock of the Cumyns had branched out into many scions even during the reign of William the Lion. They were certainly more numerous during the sad period of the succession war. In June, 1291, swore fealty to Edward I. at Norham, John Cumyn, Earl of Buchan, John Cumyn of Badenach, William Cumyn. Rymer's Fœd., ii., p. 567.

Connected with those eminent persons was another great family of Norman origin, the Baliols of Barnard-Castle in Durham, who obtained some lands in Scotland from David I. (*a*) (I). Bernard de Baliol being thus possessed of the manor of Wudehorn in Berwickshire, granted to the monks of Kelso a fishing on the Tweed called Wudehorn-stell (*b*). This grant was witnessed by David I., *his lord*, and by Guido, his son (*c*); and it was confirmed by David I. and also by Hugh de Baliol (*d*). Bernard de Baliol, as the courtier of David I., was a witness to many of his charters, the evidences of the extent of his bounty, and of the numbers of his followers from the south (*e*); yet, had Bernard de Baliol the manliness to advise David against his war with England, and the spirit to meet his benefactor in the battle of the standard. During that period the Baliols seem to have settled in Scotland. They became still more conspicuous under William the Lion and his son Alexander II. Ingelram de Baliol married during the first reign the heiress of Walter de Berkeley, the Chamberlain of Scotland, as we have seen, and thereby acquired a splendid establishment in Forfarshire *(f)*. Ingelram was successively Sheriff of Berwick and Sheriff of Fife under Alexander II. (*g*). Henry de Baliol was Chamberlain of Scotland under Alexander II. (*h*). (II). In 1233, John Baliol of Barnard-Castle married Dervorgil, the youngest daughter of Alan, the lord of Galloway, by his second wife, Margaret, the daughter of David, the Earl of Huntingdon. By this marriage he obtained on the death of Alan in 1234 vast opulence, and on the demise of Alexander III. his family was involved in lasting misery. By that illustrious woman, who lived till 1289, he left four sons and a daughter (*i*). John Baliol, who shared the estates of

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In July 1296, at Munros, John Cumyn Earl of Buchan, Sir John Cumyn of Badenach, senior, John Cumyn of Scraesburgh, William Cumyn, prepositus of St. Andrews; at Elgin, Sir Alexander Cumyn, Audomer Cumyn. Prynne, iii., p. 651; at Berwick, in August 1296, John Cumyn, Earl of Buchan, John Cumyn of Badenach, Sir Alexander Cumyn, John Cumyn of Skeresburgh, Margery Cumyn, dame de Gordon in Berwickshire, Walter Cumyn of Peebles-shire, Eymer Cumyn of Banffshire. Ib., 653-5-6-661. In Astle's pl., 3, there are three seals of this most potent family, wherein the names are differently spelled; No. 15 is the seal of John *Comyn*, the son of the Earl of Buchan; No. 8 is the secret seal of *John Cumin* of Badenach; and No. 4 is the seal of William *Comin* of Kirkintilloch, his elder brother; yet they had but one armorial bearing.

(*a*) Dug. Baron., i. 523. Hutchinson's Durham, iii., p. 233. Chart. Kelso, No. 51.

(*b*) Chart. Kelso, No. 51. (*c*) Id. (*d*) Ib., 24-32-50-52.

(*e*) Chart. Glasgow, p. 57; Chart. Kelso, No. 266. (*f*) Chart. Arbroath, 87.

(*g*) Chart. Moray, fol. 38; Chart. Arbroath, No. 155.

(*h*) In this character he is often a witness to the grants of Alexander II. See the Chartularies of Glasgow, Kelso, and others throughout.

(*i*) 1. Hugh, who died in 1272, without issue; 2. Alan, who died before his brother Hugh; 3. Alexander died in 1279, without issue; 4. John, who succeeded to all the estates of his

Alan, and through him of the Morevilles, enjoyed lands in Galloway, in Ayrshire, in Lothian and in Lauderdale, and in those territories he granted possessions to his relations, and in those several countries he settled his English vassals (*k*). John Baliol, the husband of Dervorgil, dying in 1269, after a splendid life, as one of the *Magnates Scotiæ*, and as one of the Cumyn party, left John the heir of his fortune and his claims (*l*). Among the *Magnates Scotiæ*, who engaged in 1284 to maintain the right of the Princess Margaret, were John de Baliol, the youngest son of Dervorgil, Alexander de Baliol of Cavers, and Ingelram de Baliol of Redcastle in Forfarshire (*m*); and at the Parliament of Brigham, in 1290, again appeared Alexander de Baliol and Ingelram de Baliol, among the *magnates* who had a right to sit in that assembly (*n*). In 1291, John Baliol, at the age of forty-one, claimed the crown through his mother, his grandmother, and great grandfather (*o*). His claim was allowed (*p*). When he could no longer hold the crown with the independence of those Scottish kings whom he represented, he resigned his uneasy diadem (*q*). A long and bloody struggle immediately ensued. John Baliol died in France in April 1314 (*r*); leaving by a daughter of Earl Warren, Edward, the heir of his misfortunes, and Henry, who fell in supporting the rights of his family (*s*). Edward Baliol died without issue in 1363, near Doncaster (*t*). The smaller families of the Baliols in Scotland seem to have acted throughout the succession war with spirit, and to have fallen with honour. Thus perished the Baliols, who were highly respectable for their birth and connections, for their vast possessions and their extensive liberalities.

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brothers and of his mother; and who claimed the crown in 1291, in her right, who was the daughter of Margaret, the second daughter of Earl David, the brother of William the Lion. The daughter of John Baliol and Dervorgill, who was named Margery, married John Cumyn, the competitor for the crown.

(*k*) He granted lands in Lauderdale to Alexander Baliol of Cavers, and to his brother Guido de Baliol. Chart. Dryburgh, No. 100-1-2; Chart. Soltre, No. 8.

(*l*) John, the husband of Dervorgill, was called by Mat. Paris, (907-9,) "dives et potens." He founded Baliol College at Oxford, which was patronized by Dervorgill long after his death; and she outlived her husband twenty years. Her instructive seal is engraved by Astle, pl. iii., No. 4.

(*m*) Rymer's Fœd., ii. 266.

(*n*) Ib., 471.

(*o*) Ib., 548, 578.

(*p*) Ib., 589.

(*q*) Ib., 840, 846-7-8-9.

(*r*) Rymer's Fœd., iii. 506; Innes's MS. Chron.; L'Art de verefier les dates, t. i., p. 844.

(*s*) He was killed at Annan, in defending an attack upon his brother Edward on the 16th of December, 1332.

(*t*) Knyghton, p. 2627.

Connected with the Baliols, in family and pretensions, were the Bruces of Annandale. Robert de Bruis was an opulent baron in Yorkshire, at the early epoch of Domesday Book (*u*). (I.) His son Robert, appeared in the court of Henry I. with Earl David, being nearly of the same age; and soon after the accession of King David in 1124, he obtained from his bounty a grant of Annandale (*x*). As the charter of David established a *tenure* by the *sword*, we may easily suppose that he brought with him into Annandale, knights and yeomen from Yorkshire, as indeed might be shewn, by tracing to this source some respectable families in Dumfries-shire (*y*). Yet that great baron seems to have clung to Gyseburn, where he was born and where he was buried. When he died, an old and opulent man in 1141, his son Adam inherited his English estates, and became the progenitor of the Bruces of Skelton. (II.) His youngest son Robert enjoyed Annandale from the gift of his father, and laid the foundation of the house of Bruce in North-Britain (*z*). This Robert Brus, *le Meschin*, entered into a composition with the bishop of Glasgow, concerning several churches in Annandale; as the privileges of the baron clashed with the rights of the bishop (*a*). This progenitor of the Scottish Bruces flourished under David I., Malcolm IV., and William the Lion (*b*); yet have the genealogists confounded this great baron, the protector of the monks of Holmcultram, with his father Robert, and his son Robert, and indeed seem to have been unconscious that he ever existed, though he appears very distinctly in the instructive pages of record (*c*). (III.) This liberal baron

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(*u*) Kelham's Domesday.

(*x*) Chart. Antiq. Bibl. Harl. Yet are the peerage writers so absurd as to talk in the face of this charter that this great baron of Yorkshire obtained Annandale by marrying the heiress of Annan. I have obtained from the British Museum a copy of this curious charter.

(*y*) The Jardines of Applegarth settled there as vassals of the Bruces in the twelfth century. Chart. Arbroath, No. 66. The progenitor of the Johnstons settled in Annandale in the twelfth century. Doug. Peer, 25. The progenitor of the Carlyles obtained the manor of Torthorwald from William Bruce. Ib., 128. Heralds remark how many of the gentlemen of Dumfriesshire quarter the arms of the Bruces of Annandale. Sir Geo. Mackenzie's Science of Heraldry, p. 5.

(*z*) Dug. Baron., v. i., 448; Dug. Monast., v. ii., p. 148.

(*a*) Chart. Glasgow, p. 43. The granter's son Robert confirmed this composition when he witnessed the deed with William de Brus.

(*b*) K. William confirmed the grant of David I. of Annandale to Robert Brus. This charter is printed in Ayloffe's Cal., 348, with a mistake of *villa* for *valle*, which changes the amount of the grant from a country to a town. This Robert paid, in 1171, a hundred shillings for escuage into the English Exchequer. Mad. Hist., i., 629.

(*c*) Crawford's Peer., 76; Sir Ja. Dalrymple's Col., 357; and the Record in Dug. Monast., v. 286. Robert and his wife Euphemia gave to the monks of Holm Cultram the fishing of Torduff was succeeded by his son Robert, who married Isabel, the natural daughter of William the Lion, in 1183 (*d*). This Robert copied the liberalities of his father, by giving several churches in Annandale to the monks of Gyseburn. But he did not live long. In 1191 William gave Isabel, the widow of Robert Bruce, to Robert de Ros (*e*). (IV.) Robert Bruce was succeeded by his son William, who died in 1215 (*f*). (V.) He was succeeded by his son Robert Bruce, who married Isabel, the second daughter of David the Earl of Huntington. It was in consequence of this marriage, that their son Robert entered into competition for the crown, and that their great grandson ascended the throne. He copied the liberalities of his father to the monks, by confirming their grants (*g*). He flourished under Alexander II. He died in 1245; his widow survived him till 1251; and they were buried in the abbey of Saltre near Stilton, which the second Simon de St. Liz, the Earl of Northampton and Huntington, had built (*h*). They were succeeded by their son Robert, who had married in 1244, Christian, the daughter of Gilbert, Earl of Gloucester, and as an able and strenuous baron, acted a great part under Alexander III. In 1255, he was appointed one of the fifteen Regents of Scotland, and he supported the English faction against the Cumyn party, who opposed Henry III. In 1264, with John Cumyn and John Baliol, he led the Scottish auxiliaries to the aid of Henry III. of England. In 1284, he concurred with the other *Magnates Scotiae* in promising to accept the Princess Margaret as their sovereign, on the demise of Alexander III. (*i*). In 1286, after that sad event, he entered into an association with several powerful barons, to adhere to the person who should obtain the crown in right of blood from Alexander III. (*k*). In the Parliament at Brigham in March 1290, he sat as

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on the Solway. This grant was confirmed by Robert Brus, his son, a circumstance which evinces the true filiation, and by William Brus. Id. It is a very curious circumstance in the genealogy of this family that there were nine persons in the direct descent of the Annandale Bruces, from Robert Brus of Domesday-book to Robert Brus the restorer of the Scottish monarchy, inclusive, and that there were eight of them named Robert and one of them called William. It is not then surprising that the peerage writers should have lost one of the links in this genealogical chain.

(*d*) Chron. Melrose, 175. The chronicle says that William *honorifice* dedit Isabella to Robert de Bruis.

(*e*) Ib., 179.

(*f*) Dug. Baron., i., 450; Dug. Monast., i., p. 151, wherein is a charter of confirmation by William the Lion, who mentions William Brus as the son of Robert Brus.

(*g*) Dugdale's Monast., v. ii., 151.

(*h*) Stukeley's Itinerary, 77. When the antiquary saw the ruins of this church, among which lay the bones of Robert Brus and his wife Isabel, who were the progenitors of kings, he uttered many a groan.

(*i*) Rymer, ii., 266.

(*k*) Symson's Hist. Stewarts, 78.

Lord of Annandale with his son Robert, the Earl of Carrick (*l*). In 1291, he entered into an unsuccessful competition with Baliol for the crown. He now resigned his pretensions to his son, the Earl of Carrick; and he died at Lochmaben-Castle, on Good-Friday of the year 1295, at the patriarchal age of eighty-five (*m*). (VI.) He was succeeded by Robert his son, who having accompanied Edward I. to Palestine in 1269, was ever after greatly regarded by that gallant prince. But the great distinction of his life was his marriage with Margaret, the Countess of Carrick, in 1271, at his age of twenty-seven; and he became thereby Earl of Carrick, according to the courtesy of Scotland in that age. The Earl of Carrick acted during those eventful times a very splendid part, though he was perhaps of inferior talents to both his son and to his father. He had the honour, in 1278, to do homage for Alexander III. to the English king for his English lands. He engaged, in 1284, with the other *magnates* of Scotland, to acknowledge the princess Margaret as successor of Alexander III. (*n*). He sat in the Parliament at Brigham in 1290 with his father, though on a higher form, as Earl of Carrick (*o*). He seems to have lost his wife, the Countess, in 1292, who had brought him twelve children (*p*); and he thereupon resigned to his eldest son, who was still under age, the earldom of Carrick, with every pretension which he held by courtesy, in right of his wife as Earl (*q*). The late Earl of Carrick and his heir, swore fealty to Edward I. in August 1296. Robert Bruce, the father, died in 1304, when Robert, the Earl of Carrick, obtained livery of his lands in England (*r*). After several submissions and reiterated renunciations, the Earl of Carrick was chosen one of the guardians of Scotland for Baliol, in 1299, with the bishop of St. Andrews and John Cumyn, the younger, whom

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(*l*) Rymer's Fœd., ii. 571.

(*m*) The seal of the competitor is engraved by Astle, pl. iii. No. 5. His appropriate motto was: *Esto ferox ut leo.* The caparisons of his horse are adorned and distinguished by the *Saltier*, the ancient arms of Brus.

(*n*) Rymer, ii. 266.

(*o*) Ib., 471. In 1291 (13 June), he swore fealty to Edward I. Ib., 558. He did not appear in Baliol's first parliament, though summoned for that purpose. Ib., 605. He went to Norway in 1293. Ib., 612-13.

(*p*) His issue by the Countess of Carrick were:—1. Robert, who was born in 1274; who became Earl of Carrick in 1292; King of Scots in 1306; and died in 1329. 2. Edward, who was killed near Dundalk on the 5th of October, 1318. 3, 4. Thomas and Alexander, who were taken prisoners in Galloway, 9th February, 1307, and put to death at Carlisle by Edward I. 5. Nigel, or Niel, who was taken at Kildrummie, and put to death at Berwick, 1306; and seven daughters. Dougl. Peer., 130.

(*q*) Rym. Foed., ii. 614. This resignation is dated the 27th October, 1292.

(*r*) Dugdale's Bar., i. 450.

he slew at Dumfries on the 10th of February 1306 (*s*); and after various actions which evince that they were dictated by the occasion, while his eyes were fixed steadily on the crown, Robert Bruce, the Earl of Carrick, at the age of thirty-three, became King of Scots on the 27th of March 1306 (*t*).

From those investigations with regard to *the Bruces*, we are naturally conducted to researches concerning the *Stewart* family, whose true origin has hitherto defied the most curious researches (*u*.) Lord Hailes has succeeded in proving that those various histories are nothing more than *fabulous genealogies*, without being able to determine *when* and *what was the commencement of the family of the Stewarts* (*x*). Yet his lordship acknowledges that Walter, who flourished under David I., and his successor, Malcolm IV., was *indeed* the Stewart of Scotland. But the difficult question still remains unanswered, of what family was this real personage? He uniformly speaks of himself, and is spoken of by others as Walter, *the son of Alan*; yet who this Alan was is a very embarrassing inquiry, which no one has hitherto pretended to answer, if we except the fablers, who pretend to give a regular succession of various Walters and Alans, from *Eth*, the King of Scots, who reigned during the eighth century.

I propose to show from the most satisfactory evidence, that Walter, the son of Alan, came from Shropshire in England, that he was the son of Alan, the son of Flaald, and the younger brother of William, the son of Alan, who was the progenitor of the famous house of Fitz-Alan, the Earls of Arundel. The great exploit of Walter, the son of Alan, was the founding of the monastery of Paisley during the reign of Malcolm IV., by transplanting a colony of Cluniac

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(*s*) Rym. Fœd., ii. 859. It ought, on this occasion, to be remembered that Cumyn, the Earl of Buchan, obtained from Baliol, in 1296, a grant of Annandale; and took possession of Bruce's Castle of Lochmaben. Lord Hailes An., i. 240.

(*t*) We have seen how many of the Bruces, during the succession war, fell under the sword and the axe. From the principal stock, however, branched out the following scions:—Bruce of Clackmannan. Dougl. Baron., 238. Bruce, the Earl of Elgin. Doug. Peer., 233. Bruce, the Earl of Elgin and Kincardine. Ib., 238-380. Bruce of Stenhouse. Dougl. Baron., 240. Bruce of Kennet. Ib., 241. Bruce of Blair-hall. Ib., 243. Bruce of Kinross. Ib. 245. Bruce of Earls-hall. Ib., 510. Some of those Bruces have adopted, as their appropriate motto, *Fuimus*.

(*u*) See the several histories of the illustrious family of Stewart, particularly Symson's Historical Account, which all trace this family to a Thane of Lochaber, who is feigned to have flourished in the ninth century.

(*x*) See his App., No. viii., Annals, vol. i., "A Dissertation on the Origin of the House of Stewart." The late Andrew Stuart, the able writer of "The Genealogical History of the Stewarts," concurs with the opinion of Lord Hailes, without being able to advance one step in the road of discovery towards the true origin. Gen. Hist. Stewarts, p. 2.

monks from the monastery of Wenlock in Shropshire (*y*). Such, then, was the connection of Walter the first Stewart, with Shropshire, with Wenlock, with Isabel de Say, who married William, the brother of Walter. Alan, the son of Flaald, married the daughter of Warine, the famous Sheriff of Shropshire, soon after the Norman conquest; and of this marriage William was the eldest son of Alan, and the undoubted heir both of Alan and of Warine (*z*). Alan, the son of Flaald, a Norman, acquired the manor of Oswestrie in Shropshire soon after the conquest (*a*). Alan was undoubtedly a person of great consequence at the accession of Henry I. He was a frequent witness to the king's charters, with other eminent personages of that splendid court (*b*). I will now prove the fraternal connection between William the son of Alan, and Walter the son of Alan, by a transaction which is as new to history as it is singular in itself. Oswestrie, in Shropshire, as we have seen, was the original seat of Alan, on the Welsh border. Clune in Shropshire was added to his family, by the marriage of his son William, who built Clune-castle; and

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(*y*) See the foundation charter in the Chartulary of Paisley, which evinces his intimate connection with the monks of Wenlock; and see the same Chartulary, No. 1, 7, 9, 137, 142. In 1169, Humbald, the Prior of Wenlock, held a convention at Paisley for the purpose, no doubt, of giving a constitution and settlement to the monastery of Paisley. Chron. Melrose, p. 170; Chart. Paisley, No. 2. The greatest benefactor to the monks of Wenlock was Isabel de Say, lady of Clune, the opulent and liberal wife of William, the elder brother of Walter the son of Alan. Dugdale's Monast., v. i., p. 613. This monastery of Wenlock was founded by Roger de Montgomery, the great Earl of Shrewsbury. Id. and Dug. Baron., i., p. 27; and we shall find that a younger son of this Roger followed Walter into Scotland, and obtained from him a grant of the manor of Eaglesham, which, as the most ancient possession, is still enjoyed by the Earl of Eglinton. That William, the son of Alan, married the heiress of Clune, Isabel de Say, we know from Dug. Baron., i. 454. Clune descended to the Fitz-Alans, Earls of Arundel, as appears from the Escheat Rolls of the third of Henry V.

(*z*) Dug. Monast., i. 378 and 382. William the son of Alan confirmed his father's charters. Dug. Monast., ii. 144. In 1172, the 19th Henry II., the honour of William, the son of Alan, was in the custody of the Sheriff of Shropshire, William being then dead. Madox Excheq., i. 297.

(*a*) Dug. Baronage, i. 314; Lel. Col., i., p. 231; Hol. Camden, 589; Gib. Camd., 1695, p. 542.

(*b*) He was a witness to a charter of Henry I., with Matilda, his queen, the daughter of Malcolm Ceanmore, and other personages of the highest rank, dated the 18th September. 1101; which charter was engraved from the autograph in the possession of Matthew Howard, the lord of the manor of Thorp, near Norwich, 1728. Alan subscribed this charter thus: Ego Alanus Flaaldi filio S. Alan, the son of Flathald, witnessed another charter of Henry I. at Canterbury. Dug. Monast., v. i., 353. The same Alan witnessed a charter of William Peverel to the church of St. Peter in Shrewsbury. Ib., 382. It is thus apparent that Alan, the son of Flaald, lived under, and with Henry I.

John Fitz-Alan, lord of Clune and Oswestrie, by marrying Isabel, the second sister of William de Albany, the third Earl of Arundel, who died in 1196, became Earl of Arundel, and changed his residence from Shropshire to Sussex (*c*). Now, Richard Fitz-Alan, the Earl of Arundel, being with Edward III. in Scotland during the year 1335, and claiming *to be Stewart of Scotland by hereditary right*, sold his title and claim to Edward III. for a thousand marks (*d*); but Richard Fitz-Alan had not any right to the Stewartship of Scotland. Walter, who was the *first purchaser* of this hereditary office, was the *younger brother* of William, the son of Alan, the progenitor of Richard Fitz-Alan, the claimant; and till all the descendants of the first purchaser had failed, the claim could not ascend to the common father of the two families (*e*); but Robert the Stewart, who was born of Margery Bruce on the 2d of March, 1315-16, and became King of Scots on the 22d of February, 1370-1, under the entail of the crown, was then in possession of the hereditary office of Stewart by lineal descent (*f*).

Walter, the son of Alan undoubtedly obtained from David I., and from his successor Malcolm IV., great possessions, a high office, and extensive patronage (*g*); and it may be reasonably asked, by what influence he could acquire from two kings so much opulence and such an office? David I. was a strenuous supporter of the claims of his niece, the Empress Maud, in her severe contest with Stephen. William, the brother of Walter, influenced by

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(*c*) See Yorke's Union of Honour, p. 59; Dugdale's Bar., i. 314-15. Camden, 1695, p. 545; Escheat Rolls, 3 Hen. V.

(*d*) Dugd. Bar., i. 316^b, which quotes the Clause Roll 13 Edw. III., p. 1, m. 49. Not trusting to Dugdale for such a transaction, I sent to the Tower for a copy of the Record, which attests the fact; and adds a curious circumstance which Dugdale overlooked, that Edward had obtained the confirmation of this purchase from Edward Baliol, so anxious was the ambition of Edward III. to obtain this pretended title to the *Stewartship* of Scotland!

(*e*) The Escheat Rolls of the 3rd Hen. V. evince that Thomas, Earl of Arundel, who died without issue, possessed, among other vast estates, *Oswestrie*, the original seat of Alan the son of Flaald, and of Clune-castle, the demesne of William the son of Alan: so that there cannot be a doubt, since he died seized of those estates, whether the Fitz-Alans, the Earls of Arundel, were descended from Alan, the common progenitor of the Stewarts of Scotland, who were lineally descended from Walter the son of Alan.

(*f*) See And. Stuart's Genealogical History of the Stewarts, p. 23. Crawford's Hist. Stewarts, p. 15. In 1334, Edward Baliol conferred on David Hastings of Strathbogie, the Earl of Athol, *the whole estates of the young Stewart of Scotland*; and Stuart's Gen. Hist. of the Stewarts, 31. In 1340, as we have seen, Edward Baliol confirmed to Edward III. *the office of the young Stewart*, who seems to have had nothing remaining but his fortitude, his enterprise, and his valour, which saved his country at the disastrous epoch of the battle of Halidon-hill.

(*g*) Chart. of Paisley; Crawford's Hist. Stewarts; Lord Hailes' An., i., p. 362.

the Earl of Gloucester, the bastard son of Henry I., and the powerful partizan of his sister, the Empress, seized Shrewsbury in September 1139, and held it for her interest (*h*). He attended her with King David, at the siege of Winchester in 1141, where they were overpowered by the Londoners, and obliged to flee (*i*). Such then were the bonds of connection between David I. and the sons of Alan, who were also patronized by the Earl of Gloucester. It was probably on that occasion that Walter accompanied David into Scotland. William the son of Alan adhered steadily to the Empress, and was rewarded by Henry II. for his attachments (*k*). Thus, Walter the son of Alan could not have had more powerful protectors than the Earl of Gloucester with David I., and Henry II. with Malcolm IV. When Walter by those influences obtained grants of Renfrew with other lands, and founded the monastery of Paisley for Cluniac monks from Wenlock, he was followed by several persons from Shropshire, whom he enriched, and by whom he was supported. Walter married Eschina of Moll in Roxburghshire, by whom he had a son, Alan, who succeeded him in his estates and office when he died in 1177 (*l*). Six descents carried this family by lineal transmission to Robert the Stewart, whose office was purchased by Edward III., and became King of Scots in 1371 (*m*). Walter the son of Alan was followed by his brother Simon, who was the progenitor of the family of Boyd, if we may believe the genealogists (*n*). Walter was also followed by other persons from Shropshire, who appear more distinctly on the pages of history. A younger son of Montgomery, the great Earl of Shrewsbury, obtained a settlement from Walter the son of Alan in Renfrewshire (*o*). The aggrandizement of the Montgomeries

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(*h*) Oldericus Vitalis, p. 917. William Fitz-Alan is mentioned by Hume as a forward partisan of the Empress Maud, without knowing that he was the brother of Walter the son of Alan. Hist. Eng., i., 359 ; Dug. Bar., i., 314.

(*i*) Dugdale's Baron., i., 314.

(*k*) Id. William the son of Alan died in 1170, seven years before the decease of his brother Walter. Id.

(*l*) Chron. Melrose, 174 ; Crawf. Hist. Stewarts, 5.

(*m*) See the gen. tree in And. Stuart's Gen. Hist. Crawf. Hist. of the Stewarts, 5-15.

(*n*) Walter's charter founding the monastery at Paisley is witnessed by his brother Simon. Chart. Paisley, No. 1. Simon is said to have had a son Robert, who is called the nephew of Walter the son of Alan, in a charter to the monks of Paisley. Symson's Hist. Gen. of the Stewarts, 26 ; and from this Robert the Boyds derive their descent. Id. ; Douglas Peer., 373. The Boyds have indeed the same armorial bearing as the Stewarts. Nisbet's Herald., i., 54 ; Stewart's Hist. of the Stewarts, 46.

(*o*) Robert de Mundegumbri witnessed some of Walter's charters to the monks of Paisley. Chart. Paisley, No. 7, etc. This Robert de Mundegumbri obtained from Walter a grant of the was owing to the marriage of Sir John Montgomery to the heiress of Sir Hugh Eglintoun, who died under Robert II. Robert Croc obtained from Walter the son of Alan a grant of lands, which were called *Crocs-toun* after the proprietor. He founded some chapels and an hospital, and he witnessed many charters of Walter his chief (*p*). His blood and estates were carried by a female heir into the family of Steuart, Earl of Lennox (*q*). Several other families of English descent settled in Renfrew as vassals of the Stewarts (*r*). Walter the son of Alan also enjoyed, from the munificent grant of the Scottish king, the territory of Inverwick in East Lothian, and there the first Stewart and his son Alan settled several vassals of English lineage (*s*); and the

manor of Eaglesham in Renfrew, and this was the chief possession of the family for a century and a half. The head of this family, who swore fealty to Edw. I. in 1296, is designed de Eglisham. 3 Prynne. Robert, and Alan, Montgomeries, both appear as witnesses in the charters to the monks of Paisley during the reigns of Malcolm IV. and William the Lion, as we know from the chartulary.

(*p*) See the Chartulary of Paisley throughout. (*q*) Crawf. Hist. Renfrew, 29.

(*r*) Grimketel obtained a carucate of land in Inchinnan [Arkleston?]. Chart. Paisley, No. 7. Roland acquired some part of the manor of *Mearns*, from which he assumed the surname of *Merns*. Ib., No. 19. Fulbert obtained some of the lands of Pollock, and was succeeded by his sons Peter, Robert, and Helias. Helias, acquiring some part of the Mearns in Renfrew, assumed the surname of Mearns. Ib., 54-5-7-8-9-60-64, Henry de St. Martin got two carucates of land on the Gryfe, which he held under Walter and his son Alan. Id., 22-3-4-39. Henry de Nes acquired some lands under Walter the son of Alan, out of which he gave a donation to the monks of Paisley, and got leave to build a private oratory. Id., 44, 46. Roger de Nes was also a follower of Walter the son of Alan, and witnessed some of his charters. Id., 7; and Adam de Nes held lands of the second Walter. Ib., 68-9-70-1. William de Hertford got some part of the lands of Neilstoun. Ib., 81. Some of the Maxwell family settled under the Stewarts in Renfrewshire. Herbert de Maxwell, Miles, held a part of the lands of Mearns. Ib., 61-2-3; and John de Maxwell held the lands of Lower Pollock. Ib., 62. The progenitor of the Flemings of Barochan settled in Renfrew as a vassal of the Stewarts, and the connection subsisted long between the two families. Chart. Newbotle, 194. Antony, a Lombard physician, obtained a grant of the lands of Fulton from Alan the son of Walter. Chart. Paisley, 27; and his posterity, who held these lands under the Stewarts, were surnamed *Lombard*. Antony had also his subvassals on these lands. Ib., 26, 28. His descendant, Sir Antony Lombard, renounced the lands of Fulton to the monastery of Paisley. Ib., 25. Adam de *Kent* held a part of the lands of Inglistoun, under the second Walter the Stewart, for his service, and thirty bolls of meal yearly. Ib., 48. Adam the Carpenter held Auld Inglistoun of the same Walter. Ib., 49-50-1.

(*s*) Radulph de *Kent* obtained some lands in Inverwick from Walter, with a mark of silver yearly from the mill of Inverwick. Chart. Paisley, 7-9-19. Nicolas de Costentin acquired some lands in the same district from the Stewart, and granted one *cultura* of the same lands to the monks of Paisley. Ib., 19. Robert de Costentin, Galfrid de Costentin, Walter de Costentin, and Nigel de Costentin, also settled in Inverwick under Walter the Stewart, and they witnessed

Stewarts who possessed Kyle-Stewart from the royal grant, planted there several colonists of foreign lineage, during the reigns of William, and of Alexander II. (*t*).

The Stewarts had the honour to patronize the progenitors of the illustrious WALLACE. The original country of this great man's family is idly supposed to be Wales; but his progenitors under the form of *Walense*, or *Waleys*, were undoubtedly an Anglo-Norman family who settled under the Stewarts in Ayrshire and Renfrew (*a*). Richard *Walense*, who appears as a witness to the charters of Walter the son of Alan, the first of *the Stewarts*, acquired lands in Kyle, where he settled, and named the place *Ricard-tun*, which is now the name of a village and a parish in Ayrshire (*b*); and this territory was held by Richard Walense and his posterity, under the *Stewarts*, till this family came to the throne, when the Wallaces of Ricardton became tenants in chief (*c*). Richard Walense, the first settler, was succeeded by his son Richard, who lived contemporary with Alan the son of Walter, the Stewart; and the se-

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several of his charters, and some of those of his son Alan. Ib., 1, 7, 22, 19, 39, 94. Robert Hunaud, the nephew of Nicolas de Costentin, held some lands in the same district as the vassal of Walter the son of Alan. Chart. Kelso, No. 248. Roland of Inverwick was also a vassal under the same Stewart. Ib., 249. Vincent, the son of Robert Avenel, held a part of Inverwick as a vassal of the second Walter. Ib., 251. Robert de *Kent* held a part of Inverwick under the same Stewart. His possessions were shared by his three daughters—Ada de Kent, who married William de Hawkerston; Emma, who married Richard de Hawkerston; and Helena, who married John de Mundegumrie. Ib., 250.

(*t*) See the Chartulary of Paisley throughout. I shall dive deeper down into the history of *the Stewarts*, whose blood ran in a thousand channels, in my account of Renfrewshire.

(*a*) The name of *Walense* was softened into *Waleys* in England as well as in Scotland. Rym. Fœd., vol. i., p. 621, 709, 861; and Dugdale's Monasticon throughout. The Scottish antiquaries suppose that the families of *Walense* and Valoines, who both came from England into Scotland, to have been the same; but that these two families were altogether different, is apparent from Dugdale's Baron., i., p. 441, 774.

(*b*) Chart. Paisley. The territory which Richard Walense acquired comprehended the lands of Barmore and Godenoth. Chart. Melrose. He witnessed a charter of Walter the son of Alan some time before the year 1174. Chart. Paisley, 7. Among the *Walenses* in England, we may see *Richard Walense* a witness to a charter of Simon the Earl of Northampton, to the monks of Soltre. Dug. Monast., i., 851. This was Simon the second Earl, who was contemporary with Malcolm IV. Dug. Baron., i., 59. Sir James Dalrymple, indeed, supposes that Eimar *Galleius*, who witnessed the charter of Earl David to the monks of Selkirk, was the progenitor of the *Walenses* of Ayrshire. Coll., 413; but of this there is no evidence, whereas record attests that Richard Walense was the first settler in Ayrshire.

(*c*) When the second Walter the Stewart confirmed to the monks of Melrose the lands which his grandfather had granted to them in Kyle, he also confirmed to them the grant that Richard Walense had made to them of the lands of Barmore and Godenoth. Chart. Melrose, 127.

cond Richard Walense was succeeded by his son Richard, who lived at the same time with the second Walter the Stewart, and with his son Alexander, some of whose charters he witnessed (*d*). At the accession of Robert II. Wallace of Ricardton acquired the neighbouring estate of *Craigie*, by marrying the heiress of Lyndsay of Craigie (*e*). (II). Another branch of the family of Walense took root in Renfrewshire, under the kindly influences of the Stewarts. Henry Walense, who was probably a younger son of the first Richard Walense, held some lands in Renfrewshire, under Walter the Stewart, in the early part of the thirteenth century (*f*). Henry Walense was probably the father of Adam, who, in the reign of Alexander II., was connected with Walter the Stewart (*g*); and this Adam was probably the father of Malcolm Waleys, who was the father of Sir William Waleys of Ellerslie, the celebrated champion of his country's independence (*h*). In this character he came out upon the stage, in May, 1297, to contend with Edward I. for the liberty of Scotland. He was successful in many a conflict. His successes raised him to be the guardian of the kingdom, and the leader of her armies (*i*). He freed his country, but he was enfeebled by envy, and in the end was subdued by perfidy. On the 23d of

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(*d*) Chart. Paisley, 51; Chart. Ant. Bibl. Harl., 45; Chart. Melrose. The surname was in those charters written *Walense* and *Waleys*. Besides the original estate of Ricardton and other lands in Kyle, the third Richard Waleys held the estate of Auchencrue on the river Ayr. Chart. Kelso; Dalrymple's Coll., 413.

(*e*) Crawford's Hist. of Renfrewshire, 61. For more notices of this family see the Chartulary of Paisley, and Robertson's Index to the Records. Hugh *Wallace* of Craigie enjoyed those estates in 1403. Chart. Paisley, 203-4.

(*f*) Chart. Paisley.

(*g*) A charter of the second Walter the Stewart to the monks of Balmerinach is witnessed by Dominus John Cumyn, Dominus *Adam Walense*, et Richard Crispin, *militibus nostris*; Willielmo et Adamo Capellanis nostris, Malcolme de Cloni, et Waltero clericis nostris, etc. Chart. Balmer., 23. We here see a curious intimation of the domestic economy of the Stewarts.

(*h*) Crawford states that the Wallaces of Ellerslie were scions of the ancient stock of Richardton, and he supposes that Sir Malcolm was the first sprout. Hist. Renfrew, 61. But the Chartulary of Paisley evinces that this branch came off much more early, and that Henry Wallace flourished in Renfrew under Walter the Stewart during the reign of Alexander II. Henry was probably the grandfather of Sir Malcolm, and the great-grandfather of the renowned Sir William. The wife of Sir Malcolm was the daughter of Sir Reginald Crawford, the sheriff of Ayr. Crawford's Hist. of Renfrew, 61; and Ruddiman's Index to the Diplom. Scotiæ, 121. Yet the specification of Blind Harry would lead us to believe that the mother of Wallace was a daughter of the laird of Kilspindie in Perthshire. Both Wyntown and Harry concur in speaking of the great Wallace as the second son of Sir Malcolm.

(*i*) In his charter the great Wallace calls himself "Willelmus Walays, Miles, custos regni Scocie et "ductor exercitum ejusdem." Diplom. Scotiæ, pl. 44.

August 1305, this magnanimous man fell under the axe of Edward I., whose sword could never subdue him. He left no legitimate issue; but he had a natural daughter who married Sir William Baillie of Hoprig, the progenitor of the Baillies of Lamington (*k*).

The origin of the numerous family of Douglas, which long after contended with the Stewarts for pre-eminence, is equally obscured by fables, and is as much contaminated by falsehood (*l*). Their historian cries out: "We do not "know them in the fountain, but in the stream; not in the root, but in the "stemme; for we know not who was the *first mean man* that did raise him-"self above the vulgar (*m*)." This outcry is ill-timed. If he had opened his eyes he might have seen the *first mean man* of his family. I will now produce the object of his inquiry, whom the historian might have found in record if he had been more ambitious of research, than studious of declamation. This *mean man* does not appear either in chartularies or in history before the year 1150. (*n*). (I). It was Arnald, the abbot of Kelso, from 1147 to 1160, who granted some lands on the *Duglas*-Water in Lanarkshire, "*Theobaldo Flamatico*," to Theobald the Fleming and his heirs (*o*). As this grant of Arnald to Theobald is the first link of the chain of title-deeds to Duglasdale, this family must relinquish their original domain or acknowledge their Flemish descent (*p*). Yet it does not appear that Theobald, the *first mean man*, whom Godscroft sought in vain, ever assumed the name of Duglas: that assumption was made by his first son, during an age when it was the practice of land-owners to designate themselves from the names of their lands. (II). But his son William, who inherited his estate, called himself, and was named by others, according to the custom of the age, "de *Duvglas* (*q*)." William, the son of

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(*k*) Crawford's Hist. Renfrew, 61; Ruddiman's Index Dipl. Scotiæ, 121. The estate of Elderslie went to the Wallaces of Ricardton as his nearest male heirs; this estate long continued in the family of Wallace, as we know from the records. Robertson's Index; Chart. Paisley.

(*l*) See Hume of Godscroft's History of the Douglases throughout.

(*m*) Ib., Pref. A. 2.

(*n*) The visionary tales which are told of the original descent of this family by Godscroft, and by Douglas the peerage writer, are gross fictions.

(*o*) Chart. Kelso, No. 106 and 115. Some other lands were afterwards granted by another abbot of Kelso to this family, on the same stream, which gave its distinguished name to the immediate descendants of Theobald, the Fleming.

(*p*) I sent to the Advocates Library at Edinburgh for a copy of Arnald's grant to Theobald, from the Chartulary of Kelso, that I might be sure of my position.

(*q*) William was a witness to several charters between the years 1170 and 1190. William de Duvglas witnessed a grant of Joceline, the bishop of Glasgow [1175-1199], to the monks of

Theobald, married a sister of Freskin of Kerdal in Moray (*r*). She brought him at least six sons. Archenbald de Duglas was the eldest. Bricius, who was prior of Lesmahagow in Duglas-dale, a cell of Kelso, and dean of Moray, and who became the bishop of Moray on the death of Richard in 1203 (*s*); he had four brothers, Alexander, Henry, Hugh, and Freskin, who, as they were all without provision, followed the worthy bishop into Moray, where they settled under his protection (*t*); and such were the fathers of the Duglases of Moray, who, as they sprung thus early from the original stock, are older families than the Duglases of the south, if we except the principal house. (III). The habitual partiality of the peerage writers convert Archenbald, the eldest son of William de Duglas, into the fourth Lord Duglas, who possessed *a vast estate*, with great talents and great favour from Alexander II. (*u*). He was undoubtedly the third *laird* of Duglas, but there was not a *peerage* in his family for a century and a quarter after his decease (*x*). He inherited merely the lands of Duglas, which were too narrow to supply a provision for the younger children of his father. His brother, Brice, who chose the church for his profession, was the man of talents who rose to eminence, and who was more able to provide for his younger brothers. As the three first races of the Duglases were not among the *Magnates Scotiæ*, they appear not as witnesses to the charters of David I., or his grandsons Malcolm IV. and William, or of his son Alexander II.,

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Kelso. Chart. Kelso, No. 451. William de Duvglas witnessed, with Walter de Lyndsay, a grant to the monks of Arbroath by Thomas, the son of Tankard, a Fleming who settled in Clydesdale. Chart. Arbroath, No. 135. Yet the historians of the Douglases and the peerage writers have carried back this William de Duvglas to the reign of David I., who died in 1153. They were induced by their propensities to quote a charter of David II., who began to reign in 1329, wherein William de Douglas, Miles, is a witness as a deed of David I., in whose charters no Douglas appears.

(*r*) Douglas's Peerage, 181: Chart. of Moray.

(*s*) In 1203: obijt Ricardus episcopus de Moravia, cui succedit dom. Bricius prior de Lesmahagu. Chron. Melros. Bricius was a witness to many grants, as we may see in the chartularies of Moray and Kelso; he owed his first preferment to the abbot of Kelso, and when he became bishop, he showed his gratitude by granting the abbot of Kelso the church of Birnie, in Moray, with the pertinents and lands. Chart. Kelso, No. 368.

(*t*) See the Chart. of Moray, wherein they may all be traced very minutely.

(*u*) Douglas's Peerage, 182.

(*x*) "And this remembers me," saith Sir George Mackenzie, "of a custom in Scotland which "is but lately gone into dissuetude, and that is, that such as did hold their lands of the king "were called *Lairds*; but such as held their lands of a subject, though they were large and their "superiors were noble, were only called *good men*." Science of Heraldry, p. 13. From this author of multifarious learning, we thus perceive those early Douglases ought to have been called "the *good men* of Duglasdale."

whatever the peerage writers may say mistakingly (*y*). Archenbald is said to have married Margaret, the daughter and co-heiress of John Crawford, knight, with whom he obtained considerable possessions (*z*). It thus appears from record that he had some family connection with the Crawfords; and the younger brothers of this family emigrated to Moray, where they formed the settlements which they sought under the protection of bishop Brice (*i*). Archenbald is said to have been alive in 1238 (*k*); and he certainly died before the 18th of July, 1240 (*l*). Partly by the means of marriage, and partly by retaining what he obtained, Archenbald died seized of a much larger estate than any of his progenitors had possessed; and he left two sons who transmitted his blood to several families—William his heir, and Andrew, who became the stem of the Douglases of Dalkeith, that rose to be Earls of Morton. (IV.) William, who succeeded to the estate of Duglas somewhat earlier than 1240, was a person of more consequence than any of his forefathers. With the enlargement of the estate the rank of the family increased. They were now tenants in chief, and they at length began to be ranked among the *Magnates Scotiæ*. William de Duglas was enlisted in 1255 by Henry III. into the English faction, when it was scarcely able to maintain its ground, though supported by the King of England against the Scottish party, which was composed by the Cumyns and their friends (*a*). William de Duglas certainly witnessed a charter of Alexander II. at Lanark, in 1240 (*b*); and he witnessed a charter at Kinloss in 1249, which proves that he preserved his connection with his relations in Moray (*c*). William de Duglas is said to have married Martha, the

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(*y*) This Archenbald appears, however, as a witness to many grants of private subjects, as we may see in the chartularies.

(*z*) Dougl. Peerage, 182. William de Duglas, the eldest son of this marriage, when he contracted with the Abernethy family in 1259, for marrying his son Hugh to Margery de Abernethy, referred to some lands "quæ sunt in calumnia inter me et Johannis de Crawford." Godscroft's Hist., p. 13. Sir John Crawford is said to have died in 1248, leaving two daughters—Margaret, who married Hugh de Duglas, the other married David de Lyndsay. Crawford's Hist. Renfrew, 87, who quotes Crawford's MS. Hist. of the Crawfords; but the name of *Hugh* is obviously mistaken for *Archenbald*.

(*i*) See the Chart. of Moray for several Crawfords who settled in that country while Brice was bishop.

(*k*) Dougl. Peerage, 182.

(*l*) Chart. Kelso, No. 181.

(*a*) Rymer's Fœd., i., p. 566; yet when a formal protection was deemed necessary by this party, William de Duglas was passed over in silence as a less significant character than the chiefs. Ib., 567.

(*b*) Chart. Kelso, No. 181.

(*c*) Chart. Soltra, No. 55.

daughter of Alexander the Earl of Carrick (*d*); but of the very existence of such personages there is not the least proof. Even Douglas the genealogist seems to discredit on this occasion the historian of the house of Douglas (*e*). Whoever she were, she was obliged by the unnatural conduct of her youngest son, who refused her dower, to appeal to the feeble justice of her country (*f*). In 1270 William de Duglas obtained, in consideration of his counsel, aid, and patronage, a considerable body of lands along the rivulet Pollenel, and adjacent to his demesne of Duglas, from Henry the abbot of Kelso (*g*). William de Duglas is said to have died in 1276, leaving two sons, Hugh and William, who was distinguished by an epithet of *hardy*-hood (*h*). (V.) Hugh de Duglas succeeded in 1276 to the augmented estates of his father. He married Margery, the sister of Hugh de Abernethy, in 1259 (*i*). Hugh had the honour, while he was yet young, to contribute to the defeat of the Danes at the battle of Largs in 1263; and he died before the year 1288 without issue, a circumstance which led to the succession of his brother (*k*). (VI.) William de Duglas, who was called *the hardy* by the voice of flattery, succeeded as the heir of his brother. He lived during times when hardihood was necessary. None of the Douglases appeared among the great men of Scotland, who acknowledged Margaret of Norway as the heir of Alexander III. in 1284 (*l*). Not one of them was among the associators at Turnberry in 1286, for maintaining the pretensions of Bruce (*t*). Yet in March 1290, William, as a tenant in chief, was present in the Parliament at Brigham by the name of *Guillame de Duglas*, when the heiress of Scotland was betrothed

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(*d*) Godscroft, 14.

(*e*) Dougl. Peer., 126.

(*f*) Rymer's Fœd., ii., p. 613. If she had been a daughter of the house of Carrick, connected as she would have been with Robert Bruce the competitor, Robert Bruce his son, and Robert Bruce who, before he obtained the crown, carried off as prisoners the wife and children of William de Duglas, she would have sought other protectors than the law, which itself required support.

(*g*) Chart. Kelso, No. 201. This shows that the old connection of the Duglases with the abbots of Kelso was still preserved.

(*h*) Douglas's Peerage, 182.

(*i*) That remarkable marriage contract is recited by Godscroft's Hist. of the Douglases, p. 12-15. Hugh obtained with his wife twenty carucates of land in *Glencors*, the Glencross of Mid-Lothian, probably; and his father gave him twenty carucates of land in Duglas-dale. Id.

(*k*) In 1288 William de Duglas gave an acknowledgment to the abbot of Kelso that he had received from him all his charters which were in the abbot's custody. Chart. Kelso, No. 200. This is an additional evidence of the connection of the Duglases with the abbots of Kelso, and of the practice of the times which induced the barons to send their title-deeds to monasteries as the safest repositories.

(*l*) Rymer's Fœd., ii., 266.

(*t*) Symson's Hist. Stewarts, 78.

to the heir of Edward I. (*m*). He partook, as we have seen, of the turbulence and misfortunes of subsequent times. As governor of Berwick in 1295, he was obliged to surrender the castle after the storm of the town, with circumstances which do no honour to his hardihood (*n*). After swearing fealty to Edward, Sir William Duglas joined Wallace, whom he tried to imitate and to support; but young Bruce, who had also sworn fealty to Edward at Carlisle, invaded Douglasdale, and carried into captivity Duglas's wife and children. The times did not admit of consistency of conduct. Duglas deserted Wallace and submitted to the English power; yet, finding that he could not perform what he had stipulated, Duglas with his coadjutor, the bishop of Glasgow, as they had attended Bruce and Wallace, surrendered themselves to the English troops (*o*); and in England Sir William Duglas died about the year 1302 (*p*). He is said to have married successively three wives: (1). Elizabeth, the eldest daughter of Alexander the Stewart of Scotland (*q*); (2). the daughter of William de Keith; and (3). a lady of England who was named Ferrars. Sir William Duglas certainly left two sons, James and Hugh, by the sister of Robert de Keith, who acted a similar part in that difficult scene (*r*).

Such then was the true origin of the Duglases, and such they were during the *six* first descents. It does not appear that they had yet obtained one grant

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(*m*) Rymer's Fœd., ii. 472. He was not a nominee, either for Bruce or Baliol, in 1291, when their pretensions to the crown were to be decided. Ib., 553. Yet he swore fealty to Edward I. in the chapel of the manor of Thurston in East Lothian, where the English king then lay, on the 5th of July, 1291. Ib., 562; Prynne, iii. 509. In 1293, he was prosecuted for imprisoning the king's bailiffs; for casting into prison three men, and for beheading one of them. Rym. Fœd., ii. 613.

(*n*) Godscroft, 16-17; Lord Hailes An., i. 236. In the subsequent year, 1296, he swore fealty to Edward I. at Edinburgh. Prynne, iii. 649. Yet, says Douglas's Peerage, 182, Sir William Duglas was the only person of rank who never could be prevailed on to submit to the English king. When thus compared, by injudicious folly, with Wallace, the pretensions of Duglas to valour, disinterestedness or perseverance, sink into nothing.

(*o*) Lord Hailes An., i. 246-7-8-9-50.

(*p*) Godscroft, 19-20.

(*q*) Douglas Peer., 182; and even the accurate Andrew Stuart concurs in this fiction. Gen. Hist., 14. It was plainly William de Duglas, dominus de Lugton, in the vicinity of Dalkeith, the progenitor of the Earls of Morton, who married Elizabeth Stewart, and not Sir William Duglas of Duglasdale, who had no connection with the Stewarts. Duglas of Lugton obtained lands in Lanarkshire from James the Stewart, who succeeded his father in 1283. Chart. in my Coll.

(*r*) Godscroft, p. 16. It is said by Nisbet, Heraldry, Ap., p. 3, that when William de Duglas was carried a prisoner into England, his son James was sent to France by his uncle Robert de Keith on his own charges. The infant James, who became so justly celebrated in Scottish history as the *good Sir James*, returned from France in 1303 upon hearing of his father's death. Godscroft, p. 20.

from the crown. It appears not that they ever parted with one acre of land, which they had chiefly acquired by marriage (*s*). A sort of new dynasty began with *good Sir James,* who performed great services to Robert Bruce, and in return was abundantly rewarded by that munificent prince (*t*). It does not suit my present purpose of tracing the Saxon colonization of Scotland, to follow the progress of this family any further. We have seen how early they migrated into the north. Under Robert Bruce they overspread the southern shires; under David Bruce they overran the west. Fiction created William the first Lord Duglas, at the Parliament of Forfar, which never existed (*u*). The first real peerage was acquired by this family almost three centuries after that spurious creation (*x*). The Duglases originally obtained Galloway in 1368 (*y*). After a long contest with the crown that had enriched them, the Duglases were forfeited in 1455 (*z*). When the old stock was thus cut down, a new stem sprung up, which formed the house of Angus. This new race of Duglases, imitating the old, were also forfeited under James V. They were afterwards restored, and during ages of less turbulence and more refinement, there were left in Scotland many a Douglas of great respectability and true worth.

The younger sons of the English family of Manners settled in Scotland at the end of the twelfth century (*a*). The first of this family who appears in record was Anketil de Meyners, who witnessed a charter of William de Veterepont to the monks of Holyrood, at the beginning of the thirteenth century (*b*). He was probably the father of Robert de Meyners, who flourished under Alexander II. (*c*). He was appointed chamberlain of Scotland on the accession of Alexander III. in 1249 (*d*). Meyners was probably displaced by the Cumyns

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(*s*) It is singular to remark that though the Douglases owed their first fortune to the abbots of Kelso, it does not appear that till this time they granted one foot of land, or one shilling of money, to any religious establishment.

(*t*) See the grants of Robert I. all over the South of Scotland to Sir James Duglas, in Robertson's Index to the Records.

(*u*) Godscroft, p. 10.

(*x*) David II., on the 4th of February, 1357, created William de Duglas the Earl of Duglas. Robertson's Index, 31.

(*y*) By the grant of David II. to Sir Archibald Duglas. Ib., 88.

(*z*) The act of forfeiture is dated the 9th of June, 1455.

(*a*) Dug. Baron., ii. 296. Manners, Meyners, Meners, Maneris, which afterwards, by vulgar transformation, became Menzies, were originally the same. The armorial bearings of all these were the same. Nisbet's Herald., App. 245.

(*b*) Ib.

(*c*) Robert de Meyners witnessed a charter of Alexander II. in 1231. Officers of State, 262.

(*d*) He held this office till 1253, when he was succeeded by Sir David Lyndsay. Id.: and Fordun, lib. x., c. ix., which proves that Sir David was chamberlain in 1253.

as he was one of the English faction who, in 1255, supplanted the Scottish party in the king's councils (*e*). He was one of those Scotchmen to whom the English King granted his protection, as they supported his interests (*f*). In 1258, when another change of parties took place, and the Cumyns regained their influence, Robert de Meyners and others coalesced with them; and he was nominated one of the ten regents (*g*). He was present at Perth in July, 1266, when a treaty was made with Magnus, the king of Norway, for the cession of the Western Isles (*h*). Robert de Meyners died in 1267, leaving a considerable estate in Perthshire (*i*). Robert was succeeded by his son, Alexander de Meyners, who sat in the Parliament at Brigham, in 1290 (*k*); but he appears not to have been a nominee either for Bruce or Baliol, nor does he seem to have sworn fealty to Edward I. in 1291. Fighting stoutly at the battle of Dunbar, in April 1296, he was taken prisoner, and Edward I. soon after directed an assignment of fifty merks of land, according to the legal extent, to his wife, Agnes, among other Scottish ladies whose husbands were also prisoners in England (*l*). In the subsequent year Alexander Meyners was liberated on condition of serving Edward, with other Scottish barons, in his French wars (*m*). Sir Alexander de Meyners obtained from John de Strathbolgie, the Earl of Athol, the lands of Weem and Aberfeldie (*n*). He acquired from Robert Bruce the barony of Glendochar in Perthshire (*o*). He died in this reign, leaving by Egidia Stewart two sons, Robert and Thomas, who obtained large estates, and became the progenitors of the several families who assumed the name of Menzies (*p*).

The Hamiltons of Scotland derive their descent from an Anglo-Norman stock. Roger and William, two younger sons of Robert, the third Earl of Leicester, and the grandson of Robert, the first Earl, who came over with the Conqueror, went to Scotland in the reign of William the Lion, to whom they

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(*e*) Rym. Fœd., i., 566. (*f*) Ib., 567. (*g*) Ib., 670.

(*h*) Robertson's Index, 101.

(*i*) Fordun, lib. x., c. 21. He granted the lands of Culdares in the parish of Fortingal to Mathew de Moncrief. App. Nisbet's Heraldry, 245. Among other witnesses to this grant were David de Meyners and Thomas de Meyners. Id. This last Meyners witnessed a charter of Gregory de Maleville to the monks of Dunfermline in 1251. Chart. Dunfermline.

(*k*) Rym. Fœd., ii., 471. (*l*) Ib., 728. (*m*) Ib. 790.

(*n*) A charter quoted by Nisbet. Heraldry, App., 245.

(*o*) Robertson's Index, p. 19. Robert Bruce also granted to Sir Alexander de Meyners and his wife, Egidia Stewart, a daughter of James the Stewart of Scotland, the lands of Durisdeer in Nithsdale. Id.

(*p*) See Robertson's Index.

were related by his mother, the Countess Ada. Roger, who preceded his brother, was made chancellor of Scotland in 1178, bishop of St. Andrews in 1189, and died 1202 (*q*). He was followed to Scotland by his younger brother William, who was surnamed de *Hambleton*, from the manor where he was born in Buckinghamshire. William de Hambleton, who obtained lands in Scotland, married Mary, the daughter of Gilbert, the Earl of Strathearn, from whom he acquired a large estate ; and from this union sprung the Hamiltons, who became Dukes of Hamilton, and other families of this distinguished name in North-Britain (*r*).

There were, as may be easily supposed, various other families, though of much less note, who came from England into Scotland during those early times of the Scoto-Saxon period. During the splendid reign of David I., there settled in North Britain several persons from the south, whose descendants long flourished and are still known. Edmund, who settled in Mid-Lothian, was the progenitor of the Edmundstons (s). Robert Burnard settled on the Teviot as early as 1128, and his descendants removing northward, became the progenitors of the Burnets (*t*). A branch of the English family of Vaus, or Vallibus, settled in the south of Scotland during the twelfth century, and became the progenitor of several respectable families of that name (*u*). The Boswells

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(*q*) Chron. Melrose ; Crawford's Off. of State, p. 10 ; Keith's Bishops, 9, 10.

(*r*) Douglas Peer., 327. The most considerable families which branched from this stock are Hamilton Earl of Haddington ; Ib., 318 ; Hamilton Lord Bargeny ; Hamilton Lord Belhaven ; Ib., 69-71 ; Hamilton Earl of Orkney ; Ib., 533 ; and many others. See Douglas Baronage.

(*s*) Edmund witnessed the charters of David, and from him obtained the lands which were named from him *Edmunds-tun*, whence originated the surname of Edmonston. Nisbet's Heraldry, 163, App.

(*t*) Chart. Melrose, 48-50-2-3 ; Douglas's Baron., 41.

(*u*) Dug. Baron., i., 628 ; App. to Nisbet's Herald., 250. William de Vallibus, who appears as a witness to some of the charters of King William, held under him the manors of Golyn and Dirleton, with other lands in East Lothian. Chart. Kelso, 381 ; Chart. Dryburgh, 16, 22, 26, 70 ; Chart. Coldingham, 19 ; Chart. Arbroath, 151. William de Vallibus left two sons, John and William. John, who inherited his father's lands in East-Lothian, appears as a witness to some of the charters of King William, and in a number of his successor's, Alexander II. Chart. Cupar, 7 ; Chart. Dryburgh, 18 ; Chart. Arbroath, 161, etc. He was sheriff of Edinburgh under Alexander II. Chart. Newbotle, 130. He confirmed his father's grants to various monasteries, and gave himself additional donations. Chart. Arbroath, 152-3 ; Chart. Dryburgh, 23-4-5, 71 ; Chart. Glasgow, 413, 417. Several Englishmen settled in East-Lothian as the sub-vassals of this family. The progenitor of the nobles was William Noble, who held under William de Vallibus that part of the lands of Garmylton which was afterwards called *Garmylton-Noble*. Chart. Newbotle, 123-4. William Noble was succeeded by his son Radulph Noble, who confirmed his father's grants. Ib., 125.

both of the north and west, derive their descent and name from a branch of the English family of Bosville, who settled in North-Britain under David I. (*x*). Charteris of Amisfield, and other families of the same name, owe their descent to a branch of the Anglo-Norman house of Charteris, who migrated northward during David's reign (*y*). Robert Ferrars, a branch of the English race of Ferrars, obtained from David I. for his service, some lands in Mid-Lothian before the year 1140 (*z*). David gave the manor of Simprine, which now forms the parish of Simprine, in Berwickshire, to a foreigner who was called *Hye;* and who settled here, and assumed from the place the surname of *Simprine* (*a*). The lands of Romanach in Tweeddale, were given by David to an Anglo-Norman of the name of Vermel, who transmitted them to his son and grandson (*b*). Barnard, an Englishman, obtained from David the lands of Cathrine in the Mearns, which he transmitted to his posterity (*c*). Richard Germyn, of the English family of Germyn, settled in Teviotdale under David I. (*d*). Robert de Monteacute settled in Scotland under David I., several of whose charters he witnessed (*e*). Robert de Burneville, who witnessed the charters of David both before and after he ascended the throne, settled in the south of Scotland, where his grandson, Robert de Burneville, held the lands of Brocsmouth in East-Lothian under William the Lion (*f*). Reginald de Muscamp

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(*x*) Dougl. Baron., 307-458. Robert de Bosville lived under William the Lion, and witnessed some of his charters. Chart. Arbroath, No. 38, 40; Chart. Glasgow, 25.

(*y*) Dougl. Bar., 150. Robert de Chartres witnessed a charter of William before the year 1175. Chart. Kelso, 384.

(*z*) Chart. Newbotle, No. 12. Robert granted some lands in Mid-Lothian to the monks of Newbotle, and this grant was confirmed by King William. Ib., 176.

(*a*) Hye de Simprine granted to the monks of Kelso the church of Simprine, with 18 acres of land, for the salvation of his late Lord King David, and for that of Malcolm IV. Chart. Kelso, 272.

(*b*) His son Philip de Vermel lived under King William, and granted a portion of the lands of Romanach to the monks of Newbotle between 1179 and 1189. Chart. Newbotle, 134. Philip was succeeded by his son Philip, and he by his son Radulph, who was succeeded by his son Philip de Vermel, "in feodo de Romanach." Ib., 139, 140-1.

(*c*) Chart. Arbroath, No. 96-7-8, 157-8, 160.

(*d*) Doug. Baron., ii. 469. Richard Germyn is a witness to a charter of David to the monks of Melrose, that was dated at Ercildon. Astle's MS. Diplom. Scotiæ, No. 1. He granted to the hospital of Soltra the church of Lempetlaw, without reserve. Chart. Soltra, No. 4. He granted to the same hospital a toft and other lands, a part of what Simon the son of Gilbert held of him, with a vileyn named Alan, the son of Tock, with his issue. Ib., 51.

(*e*) Chart. Holyroodhouse; Sir J. Dalrymple's Coll., 418.

(*f*) Dalrymple's Coll., 405, 410; Chart. Kelso, 4, 321. Robert de Burneville was one of the hostages for the performance of the treaty by which King William was liberated in 1174. Rym. Fœd., i. 40.

settled in Roxburghshire under David, whose charters he witnessed both before and after he became king (*f*).

During the short reign of Malcolm IV., David's successor, several English families settled in Scotland. Henry de St. Martin sat down in Renfrewshire, and gave a part of his possessions to the monks of Paisley (*g*) Alexander de St. Martin, who was probably his son, rose to be a judge under William, and obtained lands in Lothian (*h*). Under Malcolm, Radulf de Clere obtained the lands of East-Calder, where he settled as an opulent Baron, and communicated his name of Clere to this district, which was henceforth called *Calder-Clere* in contradistinction to *Calder-Comitis* (*i*).

During the long reign of William the Lion, many foreigners settled in North-Britain. Helias, the son of Hutred, obtained from Waldeve, the son of Gospatric, the lands of *Dundas* in West-Lothian (*k*). From the Gaelic appellation of his lands, Helias assumed, like other landowners, the surname of *Dundas* (*l*); and Helias had the honour to become the progenitor, not only of *Dundas* of *Dundas*, but of the other distinguished families of *Dundas* in Scotland (*m*). The Malherbs settled in North-Britain during the twelfth century.

(*f*) Dalrymple's Coll., 405; Chart. Kelso. His grandson, Thomas de Muscamp, lived under William the Lion, and witnessed several of his charters. Chart. Cupar, 5; Chart. Balmerinach, 2; and his great-grandson Robert de Muscamp, flourished under Alexander II., and died in 1250, when he was buried at the Monastery of Melrose, to which he and his fathers had been benefactors. Chron. Melrose; Chart. Melrose, 3.

(*g*) Chart. Paisley; Douglas Peerage, 227.

(*h*) Chart. Dryburgh, 74; Astle's MS. Diplom. Scotiæ, No. 4. He held the lands of Crumbestrother, in East Lothian, under King William. Chart. Newbotle, 108. He acquired the lands of Langlaw from the Countess Ada, the mother of Malcolm IV. and William. Chart. Dryburgh, 66-7-8. By his wife Basil he left a daughter Ela, who confirmed her father's grants. Chart. Newbotle, 109, 111.

(*i*) He granted the advowson of the church of Caledour, with the tenths of his mill of Caledour, to the monks of Kelso, who in return allowed him to have a private chapel in his court. Chart. Kelso, 345-6, 13, 450. He was succeeded by his son Radulph de Clere, who also acquired the manor of Cambusnethan in Clydesdale, and was equally bountiful to the monks of Kelso. To them he granted the church of Cambusnethan, with the tenth of the multure of his mills of Cambusnethan; and they in return allowed him to have a private chapel in his court there. Roger de Clerc was one of the witnesses of this grant. Id., 271.

(*k*) Diplom. Scotiæ, pl. lxxiii. The Chronicle of Melrose, by showing that Waldeve succeeded his father in 1166, and died in 1182, incidentally proves that this grant must have been made during that period.

(*l*) Helias *de Dundas* witnessed a charter of Robert de London, the son of King William. Chart. Inchcolm, No. 15.

(*m*) Sir Ja. Dalrymple's Coll., 381; Nisbet's Heraldry, App., 269, 176-7, and i. 281; Douglas Baron., 171.

John de Malherb and Adam de Malherb, obtained the manor of Morham in East-Lothian, and from it their posterity assumed the surname of Morham (*n*). There were several families of this name that settled in Perthshire (*o*). Gray, a younger son of Gray of Chillingham, settled in North-Britain under William, and was the progenitor of Gray, Lord Gray, and of other respectable families of that name (*p*). The Mortimers also settled in Scotland during this reign. William de Mortimer, who appears to have come from England as a soldier with Earl David, the brother of William the Lion, and obtained from that opulent prince the manor of Aberdour in Fife (*q*). The Moubrays also settled in Scotland during the same reign, and they got lands in Perth and the neighbouring shires, where they placed their followers (*r*). The Gourlays

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(*n*) Chart. Newbotle, 94-8, 105-6, 110-12-13.

(*o*) Hugh Malherb acquired the lands of Rossie in the Carse of Gowrie about the middle of the twelfth century. He was succeeded by his son Hugh Malherb, who lived under King William, and he granted two bovates of land in the territory of Rossie to the monks of Arbroath, which was confirmed by King William. Chart. Arbroath, 92-3, 192, 134. William de Malherb, the brother of the first Hugh, obtained a considerable grant of lands in the north-east of Perthshire, at the middle of the twelfth century, and William granted in subinfeudation the lands of Balenaus to his younger brother, Evyn Malherb, for his service. William was succeeded by his son Thomas, who gave to the monks of Arbroath a donation of two shillings yearly for ever; this grant was witnessed by his uncle Evyn and by his cousin Hugh, the son of Hugh Malherb. Id. Philip de Malherb, who was probably of the same family, settled in the Mearns during the reign of William the Lion. Ib., 96.

(*p*) Douglas Peerage, 308.

(*q*) Chart. Incholm, 10. It is said, indeed, that Alan de Mortimer previously held this manor in the reign of David I., and that he acquired it by marrying the daughter and heiress of John de Veterepont. Nisbet's Herald., i., 294. William de Mortimer witnessed some of the charters of his Lord, Earl David. Chart. Kelso, 225. He granted the church of Aberdour to the monks of Inchcolm. Chart. Inchcolm, 20. Roger de Mortimer settled in Perthshire in the reign of William, whose charters he witnessed, and under whom he was sheriff of Perth. Chart. Scone, 41, and throughout; Chart. Cupar, 14; Diplom. Scotiæ, pl. 28; Chart. Arbroath, 131. He acquired a part of the manor of Foulis in the Carse of Gowrie by marrying one of the three daughters and heiresses of William Maule, who acquired this manor and other lands from David I. Chart. of St. Andrews. By his wife Roger had a son, Hugh de Mortimer, who confirmed to the monks of St. Andrews the grant of his grandfather, Willliam Maule, of the chapel of Foulis and some land belonging to it. Id. There was one Marco de Mortimer who lived in the beginning of the thirteenth century, and witnessed some of the charters of Malcolm Earl of Fife. Chart. Moray, 103.

(*r*) Philip de Moubray witnessed a number of charters of King William, under whom he held lands in Fife. Chart. Arbroath, 55, 73, 79, 113, 124; Chart. Cupar, 6; Chart. Glasgow, 215; Chart. Moray, 57, 69. He granted to the monks of Arbroath a toft in the town of Inverkeithing in pure alms for his salvation and that of his wife Gallisme. Chart. Arbroath, 154-5. To the came into Scotland with William the Lion when he returned in 1174 (*s*). Ingelram de Gourlay obtained a grant of lands in Fife, and became the progenitor of the Gourlays of Kincraig (*i*). Another family of the Gourlays settled in Lothian, as vassals of the Earls of Dunbar (*t*). Joceline, the abbot of Melrose, and bishop of Glasgow from 1175 to 1199, obtained for his brother Helias the manor of Dunsyre in Clydesdale; and Helias granted the church of Dunsyre with its pertinents to the monks of Kelso (*u*). Hugh Say, an Englishman, obtained a grant of the lands of Kintulach in Perthshire, under William the Lion: his estate descended to Arabella, his sister, who married Reginald de Warrene (*x*). Henry Rewel, a foreigner, obtained from King William a grant of the lands of Cultrath in Fife, with Balmerinach and Ballendard (*y*); and William granted to Richard Rewel, the nephew of Henry, the lands of Easter-Ardit in Fife (*z*).

monks of Dunfermline he and his wife granted some lands at Inverkeithing. Chart. Dunfermline, Nisbet's Herald, i., 287. Philip de Mowbray outlived King William, and flourished under his son and successor, Alexander II. In July, 1215, he was sent by Alexander II. with the bishop of St. Andrews and others on an embassy to the English king. Rymer, i., 203. In June, 1220, Philip de Moubray was at York with Alexander II., and witnessed his marriage contract with the Princess Joan of England. Ib., 241. In the following year he was again at York with the same king, and witnessed the endowment of his young queen on the 18th of June, 1221. Ib., 252. Roger de Moubray, the brother of Philip, held lands in Perthshire under King William and his son, Alexander II., some of whose charters he witnessed. Chart. Arbroath, 154; Chart. Balmerinach, 20. He granted in subinfeudation the lands of Moncrief and Balconachin to Matthew, who assumed the surname of *Moncrief* from the lands. Douglas Baron., 43. Galfrid de Moubray was justiciary of Lothian in 1294. Chart. Kelso, 191. For other notices of this family see Nisbet's Heraldry, i., p. 287.

(*s*) Scala Chronica in Leland's Coll., i., 533. (*i*) Douglas Baron.. 468.

(*t*) Hugh Gourlay, the first settler, was succeeded by his son Hugh. Chart. Newbotle, 104.

(*u*) Chart. Kelso, 553.

(*x*) Reginald de Warrene witnessed a charter of William de Rothven, lord of Rothven, during the reign of Alexander II. Chart. Scone, 74. *Arabella*, after the death of her husband, granted in 1249 to the monks of Scone a toft and a croft, with three acres of land, in her territory of Kintulach. Ib., 65.

(*y*) Chart. Balmerinach, No. 2-3.

(*z*) Ib., 6. Richard Rewell witnessed a number of King William's charters. Chart. Arbroath, 91; Chart. Moray, 57, and throughout. Henry Rewell, having died without issue, transmitted his lands of Cultrath, Balmerinach, and Ballendard, to his nephew Richard, who obtained a confirmation of them from Alexander II. Id. Richard also dying without issue, was succeeded by his brother, Adam de Rewel or Stawel, who in 1225 sold the lands of Cultrath, of Ardit, and Balmerinach with its church, to Ermengard, the queen dowager, for a thousand marks. Adam went into the king's court at Forfar, before Alexander II. himself, and surrendered the whole to Ermengard, and the queen granted the estates thus acquired to the monastery of Balmerinach, which she then founded. Chart. Balmerinach, No. 4, 5, 6.

The Norhams of Northumberland settled under William the Lion in Forfarshire, where John de Norham obtained the lands of Panbride (*a*). The Mountforts came into North-Britain under William. A part of this family settled in Lothian, where they obtained the manor of Elstanford. John de Mountford of Elstanford granted to the monks of Newbotle a stone of wax yearly (*b*). William de Mountfort, who witnessed several charters of King William, obtained from him some lands in the Mearns, where he settled (*c*). John, who was probably the brother of William de Mountfort, also obtained from King William lands in the Mearns, where he settled; and he gave, in pure alms to the monks of Arbroath, the lands of Glasheler in that district (*d*). The St. Michaels came into Scotland under William the Lion. Robert de St. Michael settled as a vassal of the Earl of Dunbar (*e*). Roger de St. Michael settled in the Mearns under a grant of King William; and Roger gave to the monks of Arbroath in pure alms, the lands of Mundernachin, and his bounty received the king's confirmation (*f*). William de Candela, who obtained from David I. the lands of Anstruther in Fife, was the progenitor of the several families of Anstruther in Scotland (*g*). He was succeeded by his son William, who gave in pure alms a piece of his lands to the monks of Balmerinach (*h*). The second William was succeeded by his son Henry, who gave some booths in his town to the monks of Dryburgh; and was the first who relinquished his surname of Candela, and assumed the territorial

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(*a*) He outlived King William, and about 1220 he confirmed to the monks of Arbroath the patronage of the church of Panbride with its pertinents, which had been granted by the late king. Chart. Arbroath, 53. John, having died without issue, was succeeded by his brother Adam de Norham, who confirmed the grant of the church of Panbride to the same monks. Ib., 54.

(*b*) Chart. Newbotle, 216. William de Mountfort witnessed a charter of Alexander de St. Martin of East Lothian. Ib., 108; and William de Mountfort, with other "barones et milites" of the king, perambulated some lands in East Lothian for the purpose of settling a controversy between the monks of Newbotle and William de Vallibus. Chart. Newbotle, 126.

(*c*) Chart. Arbroath, 107, 120; and William de Mountfort witnessed a grant of Robert de Ros and Isabel, his spouse, the daughter of King William. Ib., 67.

(*d*) Chart. Arbroath, 99. This grant was confirmed by King William. Ib., 100. John witnessed the grants of his neighbours. Ib., 96, 125.

(*e*) Robert de St. Michael witnessed a charter of Waldeve, the Earl of Dunbar, from 1166 to 1182. Diplom. Scotiæ, pl. 73.

(*f*) Chart. Arbroath, 113-14. Roger was succeeded in his estate by his nephew. John de St. Michael, who confirmed the grants of his uncle. Ib., 115.

(*g*) Doug. Baron., 313, 536; Nisbet's Her., Ap., 65. (*h*) Chart. Balmer, No. 49.

distinction of Anstruther (*i*). Bernard the son of Brien, an Anglo-Norman, came into Scotland in the reign of William the Lion, from whom he obtained the manor of Hawden in Roxburghshire (*k*). Bernard assumed from his estate the surname of *Hawden*, by which his posterity were distinguished. Bernard was succeeded by his son Bernard de Hawden, who was Sheriff of Roxburgh under Alexander II., many of whose charters he witnessed (*l*). A branch of the English family of Hastings settled in Scotland under William the Lion. John de Hastings, who witnessed many charters of this king, obtained from him the manor of Dun in Forfarshire, where he settled (*m*). Adam de Hastings acquired from the same king a grant of lands at Kingoldrum in Forfarshire, where he also settled (*n*). In the reign of Alexander II. Sir David Hastings acquired the earldom of Athol by marrying Fernelith, the daughter of Henry, the last Celtic earl of that district (*o*). Walter de Hamule settled under William the Lion in Lothian, where he obtained lands (*p*). Robert de Hullecester, Miles, acquired the lands of Newton in Berwickshire, where he settled in the reign of King William (*q*). Walter de Mulcaster settled on the lands of Giffyn, which he held of the Morevilles and their successors, the lords of Galloway, in the same reign (*r*).

(*i*) Henry gave to the monks of Dryburgh "tres bothas in villa mea de Anstrother." Chart. Dryb., 15, 17, 189, 190; and he confirmed his father's grant to the monks of Balmerinach. Chart. Balmer., 49.

(*k*) Chart. Kelso. Bernard witnessed many charters of King William, for the salvation of whose soul he granted some lands in his manor of Hawden to the monks of Kelso. Id., 213, 204-5, 216; and these grants were confirmed by King William. Id., 385, 405. From the abbot of this monastery Bernard acquired the special privilege of having a private chapel in his court. Id., 210, 212. To the hospital of Soltre, Bernard granted four bolls of corn yearly, to be received at Hawden on the feast of St. Nicholas. Chart. Soltre, 28.

(*l*) Chart. Kelso, in which several other persons of this family may be seen. William de Hawden acquired the lands of Kirkyetham. Ib., 481. The families sprung from this stock are now distinguished by the name of *Hadden.*

(*m*) Chart. Arbroath, 73, 122; Chart. Cupar, 14, 35; Chart. Melrose, 4; Astle's MS. Diplom. Scotiæ, No. 3. To the favourite monastery which King William founded at Arbroath, John de Hastings granted a salt-work with some land, pasture, and other easements, in his manor of Dun. Chart. Arbroath, 174. (*n*) Ib., 156.

(*o*) He became Earl of Athol in right of his wife, in 1242. Chron. Melrose. David de Hastings, the Earl of Athol, was one of the guarantees of the peace with England in 1244. Rym. Fœd., i., 428. He granted to Ness, the king's physician, the lands of Dunfolenthin for his homage and service. Chart. Cupar, 69, 70. David the Earl of Athol died in the Holy Land in 1269. Chron. Melrose.

(*p*) Chart. Newbotle, 92. (*q*) Chart. Kelso, 348. (*r*) Chart. Dryb., 169-70.

Richard de Frunit, an Englishman, acquired from King William a grant of lands in the Mearns where he settled; and he conferred on the monks of Arbroath a portion of the estates which he had thus acquired (*s*). The Durhams derive their ancient descent from the family of that name in the north of England, a branch whereof found a root in Scotland during the thirteenth century. From this stock sprung the Durhams of Grange, of Pitkerrow, of Largo, of Luffness, and other families of this distinguished surname (*t*). The Lascelles became early attached to the princes of Scotland (*u*). An English family of this name settled in Fife under William the Lion (*x*). Radulph de Lascel was Sheriff of Fife about the year 1250 (*y*). Margery de Lascels, widow, with the consent of her son, Alexander de Moravia, gave to the monks of Inchcolm twenty shillings yearly from her manor of Baledmond in Fife (*z*). The Munfichets settled in Scotland under William the Lion (*a*). Richard de Munfichet, who witnessed some of the charters of that king, obtained from him a grant of the manor of Cargil in Perthshire where he settled, and was succeeded by his son William de Munfichet (*b*). The Munfichets were the progenitors of the families in Scotland who are named Muschet. The Bisets of England settled in Scotland under William the Lion (*c*). They obtained the manor of Upsetlington, in the Merse. They here founded an hospital which was dedicated to St. Leonard, and which Robert Byset, the proprietor of Upsetlington, conveyed, with all its rights, to the monks of Kelso (*d*). Several of the Bysets settled in Moray during the same reign. John Byset possessed the manors of Kiltalargyn, of Coneway, and of Dulbathlach, while Brice was Bishop of Moray (*e*). John Byset gave the

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(*s*) To those monks he granted some lands in Monethyn, near the river Bervie, and also a carucate of land in Ballekellefan. Chart. Arbroath, 126-7; and those grants were confirmed by King William. Ib., 128-9.

(*t*) See Douglas's Baronage.

(*u*) Alan de Lasceles witnessed a charter of Earl Henry to the monks of Holmcultram. Dug. Monast., i. 886.

(*x*) William de Lascel witnessed several charters of William. Chart. Moray, 51, 74.

(*y*) Chart. Incolm., No. 13.

(*z*) Ib., No. 15.

(*a*) The name is variously written Montefixe, Montefichet, and Munfichet. In popular speech it has been abbreviated Muschet. Rud. Ind. to Diplom. Scotiæ; Ragman's Roll in Prynne, iii., 660-2.

(*b*) Chart. Moray, 154. In 1220 William de Munfichet granted to the monks of Cupar common of pasture in his manor of Cargil. Chart. Cupar, 43. He witnessed several charters of Alexander II. Ib., 43, 58. Chart. Moray, p. 160.

(*c*) Dug. Bar., i., 632.

(*d*) Chart. Kelso, 239. Walter Byset and William Byset are witnesses to this grant. Id.

(*e*) Chart. Moray, 121, 123, 176, 181, 183. John Byset entered into a composition with Brice, touching the advowsons and tithes of the churches of Coneway and Dulbathlach. Chart. Moray. Id.

church of Kiltalargyn, with the pertinents, to the church of St. Peter at Rothven for the support of leprous persons (*f*). The Bysets became very numerous in the northern districts during the reign of Alexander II., whose charters they witnessed as persons of importance (*g*). An event happened in 1242 which involved the family of Byset in disgrace and Scotland in disquiet. Patrick, the young Earl of Athol, the son of Thomas of Galloway, overthrew W. Byset of Upsetlington at a tournament on the borders; and in revenge of this mortification the Bysets assassinated the accomplished Earl within his lodging in Haddington, which they fired, to conceal the doers of this odious deed. The nobles flew to arms; John Byset, and Walter, his uncle, were outlawed, and the whole family were disgraced (*h*).

The Chenes, who settled in Scotland soon after the thirteenth century began, were undoubtedly of Anglo-Norman lineage. Three descents had occurred in this race before the year 1260 (*i*). They do not, however, appear in any of the public acts of Alexander II's reign: neither do the Chenes appear among the two parties who struggled for pre-eminence in 1255 (*k*). But Reginald le Chene was one of the *Magnates Scotiæ* who entered into a treaty with the Welsh in 1258 (*l*): and in 1267 he became Chamberlain of

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This composition is witnessed by Arnolph Byset and William Byset of Kiltalargyn, the brother of John. Id. They witnessed another deed of John Byset. Ib., 80.

(*f*) This grant was witnessed by Andrew, the Bishop of Moray, from 1222 to 1242, by William Byset, the brother of John, by H—— his chaplain, by Wadin his scutifer, and others. He states his grant to have been made for the soul of King William and for the salvation of Alexander II. Ib., 128. *Kiltalargyn* is now *Kiltarlitie*, a parish in Inverness-shire. John Byset founded the monastery of Beaulie in 1230. Walter de Byset held the lands of Stratharric in the 13th century by a charter from the king. Rymer's Fœd., ii., 219.

(*g*) John, Walter, and Peter Byset witnessed a charter of Alexander II. at Fyvie in 1221. Chart. Arbroath, 164. William and Malcolm Byset witnessed a charter of the same king in 1229. Ib., 155. Thomas Byset witnessed a deed of Alan Hostiarius in 1256. Ib., 208.

(*h*) Mat. Paris, 397; Chron. Melrose, 206. Notwithstanding this check, the Bysets still continued a family of importance. William Byset witnessed several charters of Alexander III. in 1266 and 1279. Chart. Lindores; Title-deeds of Sinclair of Roslin. William Byset of the county of Edinburgh, and Walter Byset of the county of Aberdeen, swore fealty to Edward I. in August, 1296. Prynne, iii., 654, 660. Another William Byset, the son of Robert Byset, was taken prisoner in 1296, and was liberated in 1297, on condition of serving the English king in France. Rymer, ii., 773. When the government of Scotland was settled in September 1305, William Byset was continued in his office of Constable and Keeper of Stirling Castle, and he was also appointed Sheriff of Stirling. Ryley's Placita, 505. Thomas Byset played a double part at the disastrous epoch of the battle of Falkirk in 1298, by which he acquired from Edward I. a grant of the Isle of Arran. L. Hailes, An., i., 264.

(*i*) Nisbet's Heraldry, i., p. 130. (*k*) Rym. Fœd., i. 566. (*l*) Ib., 653.

Scotland. Reginald Chene, the father (*m*), and Reginald, the son, were both present in 1284 among the *Magnates Scotiæ* who engaged to accept the Princess Margaret for their queen (*n*). In 1290 they were present in the Parliament at Brigham (*n*); and both father and son were appointed in 1291 nominees of Baliol (*p*). But Sir Reginald, the father, died soon after, an aged man (*q*). Sir Reginald Chene, the son, was Sheriff of Invernarn in 1292 (*r*). With other persons of the same name and family, Sir Reginald swore fealty to Edward I. in 1296, when all men in Scotland submitted except Sir William Wallace (*s*). Henry Chene, the Bishop of Aberdeen, swore fealty to the English king at the same time (*t*). When Edward settled the government of Scotland in 1305, Sir Reginald Chene was appointed one of the Justiciaries in the northern parts beyond the mountains (*u*). He died before the 6th of November, 1313, when Robert I. confirmed a convention which was made with regard to the lands of Duffus between *Domina Maria*, the spouse of the late Sir Reginald Chene, and Alexander Fraser of Philorth, who married Jane, the second daughter of William, Earl of Ross (*x*). He left a son, Reginald, who inherited the extensive estates of his father. He was one of the Scottish barons who wrote the spirited letter to the Pope in 1320 (*y*). He was taken prisoner at the battle of Halidonhill in 1333 (*z*).

(*m*) Fordun, l. x., cap. 22, 26. Sir Reginald Chene witnessed a charter of Alexander, the Earl of Buchan in 1261. Chart. Aberdeen, 323. He had for some years been in possession of the manor of Inverugie in Buchan, though by what title does not appear. In 1272 Reginald Chene, the father, and Reginald, his son, witnessed a charter of Alexander the Earl of Buchan. Ib. 589. In 1281 Sir Reginald Chene, the father, was present with the Earl of Buchan, at a perambulation of the moor of Nigg. Chart. Arbroath. No. 4.

(*n*) Rym. Fœd., ii. 266. (*o*) Ib. 471. (*p*) Ib. 555.

(*q*) He married Eustace, the heiress of Sir William Colville of Ochiltree, in Ayrshire, who brought him lands in that country. Chart. Melrose. Eustace outlived her husband, and having sworn fealty to Edward I. in 1296, had livery of her lands in the shires of Ayr, Aberdeen, Banff, Inverness, in the Mearns, and in Forfar, whether her heritage or her dower. Rym. Fœd., ii. 727.

(*r*) Ayloffe's Calendar, 337.

(*s*) 3 Prynne, 651. Reginald, the son, married some time before the year 1286, Mary Moray, the eldest daughter and co-heiress of Freskyn de Moray, who died before the year 1268. As eldest daughter, the wife of Sir Reginald enjoyed the manor place and castle of Duffus, with other lands in Moray, in Caithness, and in West Lothian.

(*t*) Id. He was a son of old Sir Reginald, and a brother of young Sir Reginald; and was consecrated Bishop in 1281, and continued forty-eight years. Keith, 65. There were other Chenes in Scotland in that age. John Chene of the county of Edinburgh swore fealty to Edward in 1296. 3 Prynne, 660. (*u*) Ryley's Placita, 504.

(*x*) The Earl of Ross had married Isabel, the heiress of John, Earl of Caithness, by whom he had Jane, who married Sir Alexander Frazer. Crawford's Peer., 425.

(*y*) Diplom. Scotiæ, pl. 51. (*z*) Knyghton.

And he died about the year 1350; leaving by his wife, Mary, two daughters, who inherited his estates. Mariot married first, Sir John Douglas, and secondly, after his death, without issue, John de Keth, the second son of Edward de Keth, the Mareschal, by whom she had a son, Andrew, who inherited her estates. Mary married Nicol Sutherland, the second son of Kenneth, Earl of Sutherland, who obtained with her the barony of Duffus and other lands; and from this marriage sprung the family of Sutherland, Lord Duffus (*a*). In this manner ended, in female heirs, the male line of the chief family of the Chenes, though many branches sprang from the principal stock which still exists in Aberdeenshire (*b*).

There arose, in the same country, nearly in the same age, the family of the Grants, whose origin, as stated by the Scottish genealogist, is undoubtedly fictitious. This appellation is rather Norman than Gaelic (*c*); and the family came from Normandy into England, where many Grants appear in public employments, and whence several of them passed into Scotland (*d*). The first of this family whom I have found in record are Laurence Grant and Robert Grant, who are said to have been the sons of Gregory le Grant, who married Mary Byset, the daughter of Byset of Lovet (*e*). Laurence Grant married Bigla, the heiress of Cumyn of Glenchernach, whose estates in Strathspey (*f*) he thus obtained by marriage, with the connection of the most powerful family in Scotland. By Bigla Cumyn, Laurence Grant had two sons, John and Radulf, who were taken prisoners in 1296 when fighting for their country at the battle of Dunbar (*g*). Yet it does not appear that the Grants were very numerous at the accession of Robert Bruce in 1306. Two of them appear, indeed, as prisoners, after the battle of Halidonhill where they again

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(*a*) Doug. Peer., 196; Crawford's Peer., 108; Nisbet's Herald., ii. 20.

(*b*) Nisbet's Herald., i. 430; Chartulary of Aberdeen.

(*c*) The form of the name in Normandy, is Grand. MS. Memoir of the Grants, by the Viscount de Vaux.

(*d*) The Grants in England may be traced in Rymer's Fœd., i.; Dugdale's Monasticon; and in Holinshed.

(*e*) Laurence Grant and Robert Grant were witnesses to an agreement which is dated the 9th of September, 1258, between Archibald, the Bishop of Moray, and John Byset, touching the church of Conway, and some lands at Conway and Erchless. Chart. Moray, 183.

(*f*) Doug. Bar., 341-2.

(*g*) Rym. Fœd., ii. 776. When they were released from their captivity, in the subsequent year, on condition of serving Edward in France, John Cumyn of Badenach, the competitor, was their surety. Id. This circumstance shows that they had a very powerful protector. Robert le Grant of the county of Fife, swore fealty to Edward I. on the 28th of August, 1296. Prynne, iii. 657.

fought bravely, though unsuccessfully, for their country (*h*). The principal stock of the Grants shot out, however, in after times into a potent clan, whose sons have shone brilliantly in the two opposite professions of the gown and the sword.

The great family of the Campbells, like the numerous clan of the Grants, are undoubtedly of an Anglo-Norman lineage, whatever family historians may think or fablers may say (*i*). The progenitors of the Campbells came into Scotland during the twelfth century; but they appear little in record as actors in the public scene till the end of the subsequent age, when an uncommon occasion brought new characters upon an extraordinary stage. The Campbells, who were then settled in the several shires of Ayr, Argyle, Perth, and Dunbarton, were called forth to promise their allegiance to Edward I. (*k*). The principal stem of the Campbells took root in Argyle as early as the twelfth century by marrying the heiress of O'Dublin, a Gaelic chief, with whom he obtained Lochow, the first seat of the Campbells (*l*). Five or six descents brought down this prolific family to Gillespick Campbell, the laird of Lochow, who witnessed a charter of Alexander III. in March 1266 (*m*). Gillespick died before the year 1280, and was succeeded by his son Colin, the laird of Lochow, who was surnamed *More*, from his stature; and the chief of this family was long called from that circumstance by the Gaelic people *Mac-Calan-More*. Colin was knighted by Alexander III. in 1280 (*n*), and he also had the honour to be appointed one of the nominees of Bruce in 1291, when his title to the crown was to be investigated (*o*). Sir Colin is said to

Later research
shows this to
be nonsense.
The Campbells
were of Celtic
origin.

(*h*) Dominus John Grant and Dominus Alan Grant are recorded among the prisoners on that sad occasion by Knyghton, p. 2564.

(*i*) Crawf. Peer., 13; Dougl. Peer., 34. The name was anciently Cambel in Scotland, the same as it had previously been in England and in Normandy. Rymer's Fœd., i.; Dug. Monast. Prynne, iii. Martin of Clermont, the antiquary, was of opinion that the Cambels came from France. Gen. Col., i., 53; ii., 59. *Kemble* is a variation of the common name of Cambell.

(*k*) Nicol Cambel, Chevalier, who, we may easily suppose, was Sir Nigel or Niel Cambell, was then at the head of the Lochow or Argyle family, swore fealty to Edward in August, 1296. Prynne, iii., 653. Mestre Niel Cambell of Ayr also swore allegiance at the same time. Ib., 654-58. Duncan Cambel del Isles also swore fealty. Ib., 655. Thomas Cambel, tenant of the king in Perthshire, followed their example. Ib., 656. Dougal, Arthur, and Duncan Cambel of Perthshire, and Sire Dovenal [Donal] Cambel of Dunbretanshire, who were probably all sons of Colin Cambel, *More*, of Lochow, and brothers of Niel, also swore fealty to Edward. Ib., 657-62.

(*l*) Duncanson's MS. Hist. of the Campbells in the family archives; Dougl. Peer., 34; and Crawford's Peer., 13, who quotes a MS. Hist. of this family in his hands.

(*m*) Chart. Lindores, 3. (*n*) Dougl. Peer., 34. (*o*) Rym. Fœd., ii., 255.

have been slain in a conflict with the lord of Lorn about the year 1293. By his wife, who is called Sinclair by the family historians, he left five sons—Niel, his heir, Dovenal, the progenitor of the Campbells of Loudun, and three other sons, who all swore allegiance to Edward I. in 1296, and afterwards supported Bruce with their most strenuous efforts, and were all amply rewarded by that munificent prince for their services and hazards (*p*). As the Campbells assisted Bruce in crushing Alexander de Argyle, the lord of Lorn, they shared largely in his forfeited estates, and they seem to have risen on the ruin of that powerful lord whom they succeeded in the chieftainry of Argyle. As Sir Nigel and his four brothers obtained extensive estates from Robert Bruce, they founded five separate families, who formed each a distinct house that soon rose to eminence amidst the convulsions of a distracted country (*q*).

Such, then, were the Anglo-Saxon, Anglo-Norman, and Anglo-Belgic families who were the principal settlers among the Gaelic people of Scotland during this period of her annals. The succinctness with which the biography of those families can only be treated in this place, precludes the mention of a

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(*p*) Sir Nigel Cambel, who married Mary, the sister of Robert Bruce, joined him at the outset of his enterprise, adhered to him in his prosperity and in his adversity, fought by his side in almost every encounter from the conflict of Methven to the battle of Bannockburn; and Sir Nigel appeared in the parliament of Ayr in 1315, for settling the descent of the crown. Among other lands he obtained the whole forfeiture of David Earl of Athol. Doug. Peer., p. 35; Robertson's Index to the Records, 26. Sir Nigel is said to have died about the year 1316. His widow, the Princess Mary, certainly married Sir Alexander Fraser, the Chamberlain, who also became enriched by this alliance. Sir Nigel left by her three sons—Colin, his heir, John, who obtained from his uncle the earldom of Athol, and Dougal, who obtained from his father, among other lands, the estate of Menstrie. (II.) Sir Dougal Cambel, the brother of Sir Nigel, obtained from Robert Bruce various lands in Argyle. Robertson's Index, p. 14, 15. He must not be confounded with his nephew Dugal, with whom he had some dispute and made an agreement. Ib., 28. (III.) To Arthur, the brother of Sir Nigel, Robert Bruce granted various lands in Lorn and Argyle. Ib., 14, 15, 25, 26. (IV.) Duncan Cambel, another brother of Sir Nigel, obtained also various lands in Argyle. Ib., 14. (V.) Sir Donal Cambel, an older brother of Sir Nigel than any of those brothers, also obtained from Robert Bruce lands in Lorn and in Forfarshire. Ib., 18. This Donal was the father of Duncan Cambel, who married Susanna, the heiress of Sir Reginald Crawford, the Sheriff of Ayr, with whom he acquired among other lands the estate of Loudun. Ib., 6; Sir Ja. Dalrymple's Col., Preface, 66.

(*q*) Sir Duncan Cambel of Lochow was created a lord of parliament in 1442. His grandson Colin was made Earl of Argyle in 1457. Archibald the eighth Earl was created a Marquis in 1641, and after various forfeitures and fortunate restorations Archibald the tenth Earl was created Duke of Argyle in 1701. Crawford's Peerage, 16-22; Douglas's Peerage, p. 41.

greater number of colonists who contributed by their posterity to people North-Britain. Yet, such were the men who governed Scotland throughout the Scoto-Saxon period; who formed her constitution and administered her laws; who established her church and transmitted her authorities; who vindicated her rights and restored her independence. And the whole of the subsequent history will be found to apply in a great measure to those settlers and their sons, if we except some risings of the Gothic inhabitants of Caithness, and some insurrections of the Gaelic people in proper Scotland and in Galloway.

If any one were disposed to suspect the foundation of those intimations after such full proofs, he might find in the names of men who appear in the chartularies satisfactory evidence. Before surnames came into use men were distinguished by their countries. During the twelfth century there appeared in Scotland many settlers from England, who were known by the name of *Anglicus* (*s*). In the south and east of Scotland there still may be traced a number of places called *English*-town or Inglis-ton, which mark the settlement of Englishmen in those ages; and *English* or Inglis is a common surname in North-Britain, which is appropriate to some respectable families. Many persons settled in North-Britain during the twelfth and thirteenth centuries, who had assumed surnames from the *localities* of England. We may see in the chartularies several men who were surnamed de *Leycester* (*t*), de *Windesour* (*u*), de *Lincoln* (*x*), de *Colchester* (*y*), de *Excester* (*z*), de *Hert-*

(*s*) Radulph *Anglicus* witnessed David's charter to the monks of Selkirk. Chart. Kelso, No. 4. Richard *Anglicus* witnessed the same prince's grant to the monks of Melrose. Chart. Melrose, 54. Simon *Anglicus* settled in Clydesdale in the twelfth century. Chart. Glasgow, 51. Henry *Anglicus* witnessed a charter of Walter Berkeley, the Chamberlain. Diplom. Scotiæ, pl. 77. Thomas *Anglicus* witnessed a charter of Ronald, the lord of Galloway. Ib. pl., 81. Walter *Anglicus* witnessed a charter of Alan, the son of Roland. Chart. Kelso, 244. Philip *Anglicus* witnessed a charter of Alexander II. in 1233. Ib., 392. And we see William, *dictus Anglicus*, in the 13th century. Ib., 167. Robert *English* settled in West Lothian under King William, and was succeeded by his son Warin. Chart. Inchcolm, 9.

(*t*) Roger de *Leycester* witnessed the charter of Earl David to the monks of Selkirk. Richard de *Leycester* settled as a burgess in Perth, in the reign of King William. Chart. Scone.

(*u*) Walter de *Windesour* lived under William the Lion, and witnessed several of his charters. Chart. Kelso, 402; Astle's MS. Diplom. Scotiæ, No. 3.

(*x*) Richard de *Lincoln* was the *Clericus* of King William, and witnessed many of his charters. Chart. Arbroath, 38, 60, &c. Another Richard de Lincoln settled at Moll, under the same king. Chart. Kelso.

(*y*) Robert de *Colcester* appears in a charter of Robert de London, the son of King William, to the monks of Inchcolm, between 1189 and 1199. Chart. Inchcolm, 15.

(*z*) Henry de *Excester* settled in Clydesdale during the reign of William the Lion. Chart. Arbroath, 135.

ford (*a*), de *Kent* (*b*), de *Warewic* (*c*), de *Essex* (*d*), de *Huntedun* (*e*), de *Notingham* (*f*), de *Derby* (*g*), de *Grantham* (*h*), de *St. Edmund's* (*i*), de *Norham* and many others might be enumerated from the charters of the twelfth and thirteenth centuries; but those examples are sufficent to evince how many Englishmen of inferior note, settled during those early ages in North-Britain.

The Flemings, who were the most enterprising people of the twelfth century, emigrated through England into Scotland in almost equal numbers. After seeing so distinctly in the foregoing pages that the family of the Douglases is descended from a Fleming, the reader will not be surprised to hear that some of the greatest houses in North-Britain owe their foundations to the same people. The Flemings, who were incommoded by the infelicity of their situation at home, migrated to England in great numbers during the reign of William Rufus and Henry I. (*a*). During the civil wars of Stephen, the Flemings acted as stipendiaries in his armies. On the accession of Henry II. in 1154, he banished the *Flemings* and other *foreigners* who had come into England in such numbers during the preceding reign (*b*).

(*a*) William de *Hertford* settled at Neilston, in Renfrewshire, during the reign of King William. Chart. Paisley, 81.

(*b*) Several persons of this surname settled under Walter the son of Alan, in Renfrew, and in East Lothian. Several of the same name appear in Ragman's Roll. 3 Prynne.

(*c*) Richard de *Warewic* settled under the Morevilles before 1190. Chart. Glasgow, 165.

(*d*) John de *Essex* settled in Fife, in the reign of Alexander II. Chart. Balmerinach, 16.

(*e*) John de *Huntedun* settled in Clydesdale during the reign of King William. Chart. Melrose, 12: Chart. Kelso, 186. Another John de *Huntedun* was rector of Durisdeer, in Nithsdale. Chart. Kelso, 27.

(*f*) Radulph de *Nottingham* was *Præpositus* of Berwick. Chart. Newbotle, 207.

(*g*) Roger de *Derby* was a canon of Aberdeen, in the middle of the thirteenth century. Chart. Aberdeen, 336.

(*h*) John de *Grantham* settled in Berwick. Chart. Kelso, 35.

(*i*) Walter de *St. Edmund's* settled in Perthshire during the reign of William the Lion. Chart. Scone, 54.

(*a*) William Rufus settled them on the waste lands in Northumberland, and in Cumberland, where their settlements may still be traced by the names of places. Henry I. planted many Flemings in Wales. L'Art de Verefier les Dates, tom. iii; Malmsbury, fo. 68; Hoveden, Florence of Worcester; Simeon of Durham.

(*b*) Gervaise Chron. 1377. No. 30: Giraldus Cambrensis, book i., ch. ii.: Brady's Hist., i. 298: Carte, i. 503. Bromton, 1040, says there were in England, during the year 1155, a great multitude of Flemings, who were driven away by the edict of Henry II; and who went chiefly into the North, while some of them settled in Wales. King John brought so many Flemings into England to oppose his Barons that, according to the *Scala Chronica*, the country had much ado to feed them. Leland's Coll., i. 585.

The Flemings, driven thus from England, repaired in great numbers to North-Britain, where they easily obtained settlements, after acting as stipendiaries in the king's armies (*c*). They settled in the towns, in the hamlets, in the country, and on wastes which they converted into villages. The Flemings who thus colonized Scotland during the twelfth and thirteenth centuries were a far more civilized people than the Gaelic inhabitants among whom they settled; as they were more addicted to industry and business, the Flemings sat down in the villages and towns, a policy which the Gaelic people abhorred (*d*). The towns along the eastern coast were chiefly settled by Flemings during those early times, when Flanders was the universal mart (*e*). Several hamlets along the same shore, which were named *Flemington*, still mark the places where the adventurous Flemings found permanent repose.

In addition to the subordinate classes of Flemings who settled in the towns, and energized the hamlets as traders or fishers, many eminent persons, who had distinguished themselves in the wars, came with their followers into Scotland; where their services were rewarded by the sovereigns, with grants of lands which they knew how to cultivate. They settled in every district of North-Britain, from the Tweed and the Solway, to the Clyde and the Moray Frith; and their posterity formed numerous and respectable families at the recent conclusion of the Scoto-Saxon period (*f*).

(*c*) William of Newbrig, i., p. 210; Lord Lytt., iii. 148. The Scala Chronica says, "William, "King of Scots, entered England, having with him many Flemings, and wan the castles of Appleby "and Burg." Lel. Col., i. 532. When William was taken prisoner in 1174, some of his principal officers were Flemings, as we know from the English chroniclers.

(*d*) Adam Flandrensis was the prepositus of Berwick, in the thirteenth century. Chart. Newbotle, 207; a body of Flemings possessed the Redhall in Berwick, by the tenure of defending it against the English; in 1296, thirty of those Flemings bravely defended this post till it was fired, when they perished in the flames. Border Hist., 195. The other towns along the east coast were also energized by Flemings. Stat. Acco., xvi., p. 517. Under William the Lion, St. Andrews was inhabited by *Scots*, French, English, and *Flandrenses*. Reliquiæ Divi Andreæ, 167. Maynard, a Fleming, was the Provost of St. Andrews under David I. Henry Bald, a Flemish goldsmith, settled in Perth during King William's reign. Chart. Scone, 40. Swartbrand, a Fleming, settled in Perth during the same reign. Chart. Balmerinach, 21-22. Baldewin, a Flemish saddler, settled in Perth under David I; and was surnamed *Lorimer* from his profession. Chart. St. Andrews. Bartholomew, a Fleming, became a burgess of Edinburgh during King William's reign. Chart. Inchcolm, 19.

(*e*) Even as late as the year 1587, an act of Parliament was passed "anent the *craftsmen Flemings*." Private Act Ja. VI., No. 63 of Skene's Collection.

(*f*) In the charters of the twelfth and thirteenth centuries, there are a number of persons who were surnamed le *Fleming*, le *Flamang*, *Flandrensis*, *Flamensis*, and *Flamaticus*, though the settle-

Jordan, a Flandrian, obtained from David I. some lands on the Tweed, where he settled, and whence he proceeded with William the Lion to the fatal siege of Alnwick, which ended in the captivity of both (*g*). Many Flemings settled with their followers in Annandale, where they formed a numerous clan, during the fourteenth, the fifteenth and sixteenth centuries. The Flemings settled in Clydesdale amidst the descendants of the ancient Britons (*h*). The Flemings sat down in Renfrew, where they founded some distinguished houses (*i*). During the reign of William the Lion a Flemish leader acquired the manors of Kilpatrick and Dunnotyr in Dumbarton, where he settled with his followers among the Gaelic people (*k*). The Flemings settled also in Ayr under the Earl of Carrick (*l*). Baldwin, a more distinguished Flemish leader than any of those, settled with his followers at Biggar in Clydesdale,

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ments of each cannot be localized. See the chartularies throughout, and Sir J. Dalrymple's Coll., 424-5-6. Robert le Fleming was one of the Barons who sat in the Parliament at Brigham, in 1290. Rym. Fœd., ii. 471. Many Flemings swore fealty to Edward I. in 1296; Sir John Fleming at Aberdeen; Wil iam le Fleming, of Seton, in Edinburghshire; Walter le Fleming of Lanarkshire; William le Fleming and Patrick le Fleming of Dumbarton; Alan le Fleming of Ayr; John le Fleming of Peebles; and others of the same instructive name. 3 Prynne, 651-9.

(*g*) Jordan, *Flandrensis,* witnessed a charter of David I. to the monks of Kelso in 1144. Chart. Kelso, 8. Jordan, the Fleming, witnessed a charter of the Countess Ada to the monks of Dunfermline. Sir Ja. Dalrymple's Coll., 425. Jordan granted some lands in the territory of Orde, to the monks of Kelso. Chart. Kelso, 27. Even the English chroniclers take notice of the capture of Jordan the Fleming.

(*h*) Tankard, a Flemish leader, obtained from Malcolm IV., a grant of lands in Clydesdale, where he settled with his followers, and named his seat *Tankards-tun.* He was succeeded by his son Thomas, who lived under William the Lion. Thomas granted to the monks of Arbroath all his lands, lying between the Eskar and Caledour, which he says, had been given to his father by Malcolm. This charter was witnessed by William de Douglas, the son of Theobald, the Fleming, who had settled on the Douglas-water, about the same time that Tankard sat down in his neighbourhood. Chart. Arbroath, 135-6. The village of Thankerton is still distinguished by the name of the Flemish Tankard in Upper-Clydesdale. William the Fleming settled in Clydesdale, in the beginning of the thirteenth century. Chart. Kelso. Patrick Flandrensis sat down in this district about the same epoch. Chart. Glasg., 257.

(*i*) A Flandrian, who settled in Renfrew, under Walter the son of Alan, during the reign of Malcolm IV., was the progenitor of Fleming of Barochan. Chart. Paisley; Stat. Acco., i. p. 327. This family, who are called in the charters *Flamensis* and *Flandrensis,* may be traced throughout the thirteenth century, while their connections with the Stewarts are apparent. Chart. Paisley, 43, 33-7, 62, 79; Chart. Newbotle, 194.

(*k*) He was succeeded by his son, Hugh *Flandrensis,* who enjoyed those lands under Alexander II. Chart. Paisley, 282.

(*l*) *Dominus* Bartholomew, Flandrensis, Miles, witnessed the charters of Neil, the Earl of Carrick, during the reign of Alexander II. Robertson's Index to the Records.

under a grant of David I. (*m*). Baldwin was sheriff of Lanark under Malcolm IV. and William the Lion (*n*). He obtained also the manor of Inverkip in Renfrew (*o*); and from that distinguished Fleming descended the Flemings, Earls of Wigton, the Flemings, Lord Fleming, with other respectable families of the same name (*p*). Robert, a Flandrekin, settled in East Lothian, where he acquired lands by marrying Matilda, an heiress, in the reign of Alexander II. (*q*). Many of the new settlers in North-Britain acquired their estates by the commendable mode of marriage.

Various Flemings of different ranks settled in several districts beyond the Forth. Robert Burgon, a Flemish leader, obtained some lands in Fife from David I. (*r*). Bartholomew, *Flandrensis*, a knight, settled in Angus under Alexander II. (*s*). Aberdeenshire was particularly distinguished in early times for considerable colonies of Flemings. Bartholomew, a Flemish chief, settled with his followers in the district of the Garioch; his posterity were denominated *de Leslie*, from the place where he fixed his residence (*t*). Earl David, the opulent brother of King William and lord of the Garioch, confirmed to Malcolm *de Leslie*, the son of Bartholomew, the whole lands of *Leslie* which his father had held (*u*). So many Flemings settled in Scotland during those ages of colonization, that they obtained a right to be governed by their own law. This principle of Scottish jurisprudence was recognised as late

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(*m*) Chart. Glasg., 57. He was first designed *Baldewin Flamingus*, but he assumed like other proprietors from his lands the appellation of Baldewin *de Biger*. Chart. Paisley, 7.

(*n*) Chart. Newbotle, 175; Chart. Paisley, 94; Crawf. Off. of State, 299. Several of Baldwin's descendants enjoyed the same office of sheriff during the thirteenth century. Chart. Kelso, 332; Dalrymple's Coll., 415; Off. State, 264. For other notices of the posterity of that respectable Fleming, see Chart. Kelso, 185-8, 334-40. Waldeve, the son of Baldewin de Biger, was taken prisoner with William the Lion at the siege of Alnwick Castle, in 1174. Hoveden, 539.

(*o*) Baldwin granted to the monks of Paisley the church of Inverkip, with some lands in the same parish. Chart. Paisley, 94.

(*p*) Dalrymple's Coll., 426; Crawford's Peer., 491; Douglas Peer., 693.

(*q*) Chart. Newbotle, 123.

(*r*) Chart. Dunfermline; Chart. St. Andrews; Chart. Antiq. Bibl. Harl.

(*s*) Chart. Arbroath, 208.

(*t*) From Bartholomew descended Leslie Earl of Rothes, Leslie Earl of Leven, Leslie Lord Lindores, Leslie Lord Newark, and many other families of this name. Dougl. Peer.

(*u*) This grant of Earl David is addressed, "omnibus probis hominibus totius terræ suæ, Francis, "Anglis, *Flamingis*, et *Scottis*." This charter, according to Malcolm the antiquary, was granted in 1173. It was certainly granted between 1172 and 1199, as Matthew, the bishop of Aberdeen, is a witness. Malcolm's MS. Coll., 425. Earl David, as well as his brother William the Lion, appears to have had several Flemish followers. Simon *Flamang* witnessed Earl David's foundation charter of the monastery of Lindores. MS. Monast. Scotiæ, 224.

as the reign of David II. (*x*). We may thus perceive the true source to which may be traced up the Teutonic dialect of Aberdeenshire that is even now called the *Broad Buchan.*

We are now to follow the Flemish colonists into Moray, whose Gaelic inhabitants had often distinguished themselves by their opposition to strangers. Berowald, a Flandrian leader, obtained from Malcolm IV. a grant of the lands of Innes and Urchard, where he settled with his followers (*y*). As the first descendants of Theobald and Bartholomew assumed from their lands the surname of *Duglas* and *Leslie,* so the first descendant of Berowald took from his estate the name of *Innes,* which he transmitted to some respectable families who are descended from the same stock (*z*). We are at length to divert to one of the most eminent chiefs who came into Scotland during the migratory age of David I. Freskin, a Fleming, obtained from that munificent king the lands of Strathbrock in West-Lothian. Soon after the insurrection of the Moray-men in 1130, Freskin, who probably contributed by his skill and bravery to the subduement of those ancient people, acquired from the same prince some of the most fertile districts of the Lowlands of Moray (*a*). Freskin left two sons, Willliam and Hugh (*i*), and the former certainly inherited his lands both in Moray and West-Lothian, which were confirmed to him by William the Lion (*b*). William, the son of Freskin, acquired other lands in Moray

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(*x*) David II. granted a charter to John Marr, canon of Aberdeen, for the lands of CrutERStown in the Garioch, "una cum lege *Flemynga,* dicitur *Fleming-lauche.*" Robertson's Index to the Records, 61. *Cruter,* the settler of this hamlet, was plainly a *Fleming,* as we learn from his name.

(*y*) Chart. Moray ; Shaw's Hist. Moray, App., xiv. The settlement of those Flemings and other strangers of English lineage, gave rise to the tale which is recorded by the old historians, how Malcolm IV. dispossessed the ancient people and repeopled it with very different inhabitants. The rising of the Moray-men in the time of David I. was suppressed perhaps by Flemish stipendiaries, who obtained lands, like Berowald, for their services.

(*z*) MS. Account of the families of Innes, in my Library ; Shaw's Hist. of Moray ; and Douglas's Baronage.

(*a*) Freskin then obtained Duffus, Rosile, Inshkiel, Kintrae, Machir, and others. Chart. Moray ; Shaw's Hist. Moray, 75 ; App. to Nisbet's Heraldry, 191. On Duffus he built a fortalice, wherein he resided, the massy ruins whereof are still remarkable. Shaw's Hist. Moray, 207.

(*i*) Hugh, the son of Freskin, witnessed a charter of Robert the bishop of St. Andrews to Herbert the bishop of Glasgow, before the death of Earl Henry, the son of David I., in 1152. Chart. Glasg., 57. Douglas has perverted some charter notices of Hugh Freskin, the son of the above William, so as to apply them to Hugh, the son of Freskin. Peerage, 660-1. Of this last Hugh no other notice appears.

(*b*) King William, in the beginning of his reign, confirmed to William the son of Freskin the lands in Moray and West Lothian, *which his father Freskin had held under David I.* Chart. Morav.; Shaw's Hist. of Moray, 74-5 ; Nisbet's Herald., App., 191.

from the bishop during the year 1190 (*c*). He flourished under Malcolm IV., and was a constant attendant on King William during his frequent expeditions into Moray, when he witnessed several of his grants (*d*), and perambulated some lands under his authority (*e*). After thus acting as the most considerable person in Moray, next to the bishop, William, the son of Freskin, died towards the end of the twelfth century, leaving two sons, Hugh and William, who in some charters are surnamed Freskin, while in others they are designed de Moravia, or Moray, which became the surname of their posterity in preference to the family name of Freskin (*f*). (I.) Hugh, the eldest son, inherited his father's lands in Moray (*g*). At the end of the twelfth century Hugh acquired, from King William, the territory of *Sutherland*, lying northward, on the opposite side of the Moray Firth, which had been forfeited by the Earl of Caithness in the rebellion of 1197 which Hugh Freskin had assisted to suppress (*h*). Hugh Freskin died soon after 1203, leaving two sons, Wil-

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(*c*) Chart. Morav., 138.

(*d*) William the son of Freskin, witnessed Malcolm IV.'s charter to Berowald the Flandrian, in 1157, at Perth. Id. ; Shaw's Hist. Mor. App. No. 14. See the charters of William the Lion, which he witnessed in Chart. Morav., 152-156-158-206 ; he witnessed, with his son Hugh, charters of King William. Ib., 72-4, 147-8 ; and he witnessed some of the same king's charters with his sons Hugh and William. Wight on Elections, 410 ; MS. Monast. Scotiæ, 204.

(*e*) Chart. Morav.; MS. Monast. Scotiæ, 205.

(*f*) Hugh Freskin and William, his brother, witnessed a charter of King William at Elgin, between the years 1203 and 1211. Chart. Morav., 159. Hugh de Moravia witnessed a convention of Richard, the bishop of Moray, with Duncan, the Earl of Fife, between the years 1187 and 1203. Ib., 152.

(*g*) Ib., 2.

(*h*) Of the rebellions of the Earl of Caithness in 1196 and the subsequent year, Fordun gives some useful particulars in lib. viii., c. 59. In 1196 King William, he says, "exercitum duxit, in "Cathenesiam, et transito *fluvio Ochiello*, utramque provinciam Cathenesiam," &c. The river *Ochil* falls into the Frith of Dornoch, and divides Sutherland from Ross; it thus appears that Harold's *earldom* of *Caithness* comprehended *Sutherland*, or South Caithness, at the epoch of that insurrection; and it is equally clear that he was deprived of it on that occasion when he had shown how unfit he was to enjoy power, for Hugh Freskin appears in possession of Sutherland in the beginning of the thirteenth century, as he granted to his relation Gilbert, who became archdeacon of Moray about the year 1203, the lands of Skelbol in Sutherland, to hold the same in fee. This grant of Skelbol was confirmed by William, *dominus* [laird] of Sutherland, the son and heir of the late Hugh Freskin; and both those grants to Archdeacon Gilbert were confirmed by William the Lion between the years 1211 and 1214. Add. Sutherland Case, p. 9. Lord Hailes, indeed, says that the grant of Hugh Freskin to Archdeacon Gilbert was made some time between the years 1186 and 1214; but the Chartulary of Moray evinces that *Robert* was archdeacon of Moray till 1203, when *Gilbert* became archdeacon in his place; and consequently the grant of Hugh Freskin must have been made to Archdeacon Gilbert in some subsequent year.

liam, who inherited from him the new acquired estate of *Sutherland*, and Walter, who enjoyed Duffus, with other possessions, in Moray. William became thus the laird of Sutherland at the commencement of the thirteenth century and at the end of King William's reign (*i*). The death of Earl Harald in 1206, with the punishment of his sons, did not prevent fresh insurrections of the Scandinavian people of Caithness in 1222, when they assassinated Andrew, their bishop with circumstances of odious cruelty, as well as insidious insult, to the government of Alexander II. (*k*). The Scottish king severely avenged that aggravated outrage. The Freskins were again called out in support of the royal authority, and they probably contributed their assistance in crushing the insurrections of Gillespick in 1228 (*l*). It was on this occasion, perhaps, that the gratitude as well as policy of Alexander II. thought fit to raise William Freskin to the dignity of Earl of Sutherland, in order to balance the power or overawe the turbulence of the Earl of Caithness (*m*). William, who thus became the first Earl of Sutherland under Alexander II., is supposed to have died in 1248, when he was succeeded by his infant son William (*n*). This second Earl of Sutherland was too young, or perhaps at too great a distance, to engage in the ambitious intrigues of Alexander III.'s minority, but he attended the Parliament at

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(*i*) When William, the eldest son of Hugh Freskin, confirmed his father's grant of Skelbol to Archdeacon Gilbert, he styled himself, "Willielmus *dominus* de Sutherland, filius et heres quondam "Hugonis Freskyn;" and this confirmation was confirmed, as we have seen, by William the Lion between the years 1211 and 1214, when the aged king demised. We may remember that Sir George Mackenzie, the Lord Advocate of Scotland, translated *dominus* by the appropriate word *laird*, to signify merely a tenant in chief of the crown. Now, here are satisfactory proofs that the earldom of Sutherland did not exist at the demise of William the Lion in 1214; and of course that William the son of Hugh Freskin, who called himself *dominus* de Sutherland, was not then *Earl* of *Sutherland.*

(*k*) "An. 1206, obiit Comes Arald" [in the castle of Roxburgh]. Chron. Melrose, 182. A new Earl of the same turbulent race appears to have been soon after appointed to proper Caithness, which lay northward of Sutherland, who was in possession when Andrew was assassinated.

(*l*) Fordun, lib. ix., c. 47.

(*m*) The convention of the year 1275 between Archibald, the bishop of Caithness, and William, the Earl of Sutherland, states that controversies had arisen between Gilbert, William, and Walter, three of Archibald's predecessors, the bishops of Caithness, "et nobiles viros Willielmum claræ memoriæ, "et Willielmum ejus filium *Comites* Sutherlandiæ." This indenture is printed in the original case of the Countess of Sutherland, App. No. 1. This writing attests that William the son of Hugh Freskin, who was the son of William Freskin, who was the son of Freskin who flourished under David I., was in fact the Earl of Sutherland; and from the foregoing documents, it is apparent that he was the first *Earl*. In opposition to this document Douglas, however, calls him the *second* Earl of Sutherland. Douglas Peer., 661.

(*n*) Crawford's Peer., 472; Douglas Peer., 661.

Scone in 1284, which engaged to support the title of the princess Margaret (*o*); he sat in the great Parliament at Brigham in 1290 (*p*). He swore fealty to Edward I. in 1296 (*i*). At the age of sixty-seven he fought in support of Bruce at Bannockburn in 1314 (*q*). He outlived those disastrous times, and subscribed the spirited letter to the Pope in 1320 (*r*). He died in 1325, when he had nearly advanced to the patriarchal age of eighty years (*s*). William, the second Earl, was succeeded by his son Kenneth, the third Earl of Sutherland, who fell in defending his country on Halidonhill in 1333 (*t*). It is unnecessary to trace any farther the Sutherland branch of the family of Freskin, as their descents are so obvious as to require little illustration (*u*). (II.) Walter, the other son of Hugh Freskin, as he enjoyed his father's lands in Moray, was distinguished by the surname of *de Moravia* or *Moray*, a distinction that his father sometimes enjoyed; and as Walter possessed the castle of Duffus which his great-grandfather Freskin had built, he was designed sometimes Walter de Duffus, to distinguish him from his cousin Walter de Moravia of Pettie (*x*). Walter de Moray married Euphemia, by whom he obtained some lands in Ross. He died between the years 1240 and 1248, leaving by Euphemia a son, Freskin de Moray, who inherited from his father the manor of Duffus and other lands in its vicinity, Strathbroc in West-Lothian, and from his mother the Clonys, in Ross (*y*). Freskin de Moray appeared as Dominus de Duffus in 1248, when he entered into a composition with the bishop of Moray about their several rights (*z*). Freskin de Moravia was one of the *Magnates Scotiæ* who entered into a treaty with the Welsh in 1258 (*a*). He died before the

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(*o*) Rym. Fœd., ii., p. 266. (*p*) Ib., 471. (*i*) 3 Prynne.

(*q*) Sir Robert Gordon's MS. Hist. of the Sutherland family; Crawford's Peer., 472.

(*r*) Diplom. Scotiæ, pl. 51.

(*s*) It was to this venerable Earl that the House of Peers adjudged the present Countess of Sutherland to be the successor *as heir of his body.*

(*t*) Nicol, a second son of Earl Kenneth, was the progenitor of Lord Duffus and the Sutherlands of this family. Crawford's Peer., 109.

(*u*) See the *Pedigree* which is annexed to the additional Sutherland Case.

(*x*) Chart. Mor., 128. Walter de Duffus and dominus Walter de Pettie, militibus, were witnesses to a convention between their relation Andrew the bishop of Moray and David de Strathbolgy in 1232. Ib., 77. They both witnessed many deeds of bishop Andrew between 1222 and 1242; but they were most frequently distinguished as Walter de Moravia, the son of Hugh, and Walter de Moravia, the son of William de Moravia. Chart. of Moray throughout.

(*y*) Chart. Moray. Freskin of Moray, with his relation Malcolm of Moray, the progenitor of the Athol family, witnessed a charter of Malise, the Earl of Strathearn, about the year 1236. Nisbet's Herald., App., 192.

(*z*) Chart. Mor., 90-1. (*a*) Rym. Fœd., i., p. 653.

year 1268 (*b*), leaving two daughters, Mary and Christian, who, as we have seen, married Reginald de Cheyne and William de Federeth, and thus carried with them into the families of strangers the estates of the Freskins in Moray. (III.) It is now time to advert to the younger brother of Hugh Freskin, William, the younger son of William the son of Freskin, the first settler in Moray. William Freskin appears often with his father William and his brother Hugh, as witnesses to the grants of William the Lion in the end of the twelfth and in the beginning of the thirteenth centuries (*c*). He possessed large estates in Moray, partly from his father, perhaps more from his own acquirement, particularly from the bishops of Moray (*d*). He died about the year 1220, leaving by whatever wife a son Walter, who inherited his estates, and other sons who propagated the name of Moray by founding other houses (*e*). Walter was often designed of Pettie, in order to distinguish him from his cousin Walter Moray of Duffus; but Walter of Pettie was never called of *Bothwell*, as Douglas the Peerage writer mistakingly supposes. He flourished from 1222 to 1242, while Andrew of Moray was bishop, whose charters he frequently witnessed (*f*). He is said to have married a daughter of the Earl of Fife, whose charters he also witnessed (*g*). Walter of Moray was one of the guarantees of the peace with England in 1244 (*h*). During the factious minority of Alexander III. he acted with the Earl of Fife as one of Henry III.'s party in 1255 (*i*). Walter soon after died at an advanced age, and was succeeded by his son Walter, who has been confounded by the Peerage writers with his father Walter. The son of Walter inherited his estates in Moray, and he acquired, probably by marriage, the manor of Bothwell in Clydesdale and the lands of Smallham in Berwickshire, both which had been recently possessed by the Olifards (*k*). He appears from his charters to have

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(*b*) Chart. Mor., 300.

(*c*) Wight on Elections, App., 410; Chart. Mor., 159, and throughout. William Freskin was sheriff of Invernarn in 1204. Ayloffe's Cal., 337. This shows distinctly when he flourished. From the location of his father's and his own possessions he assumed the distinguished surname of Moray, which he transmitted to his posterity.

(*d*) Chart. Mor. throughout.

(*e*) As the family of Moray had now branched out into two stems from the original stock, it is impossible to trace all the ramifications. John de Moray, who lived contemporary with the above William, and was probably his younger brother, emigrated to the south, settled in Perthshire, and became the progenitor of the Morays of Tulliebardin, who rose to be Earls, Marquisses, and Dukes of Athol. See Douglas's Peerage and Baronage.

(*f*) Char. Mor. throughout. (*g*) Id. (*h*) Rym. Fœd., i., 428.

(*i*) Ib., 566-7.

(*k*) Chart. Dryburgh, 117-18; Chart. Glasg., 221; which evinces that Walter Olifard the resided in the Castle of Bothville (*l*). He died soon after, and was succeeded by his son, William, who appeared in the Parliament of Scone, 1284 (*m*). He also sat in the more numerous Parliament of Brigham in 1290, with his brother Andrew de Moray (*n*). He swore fealty to Edward I. in 1291 (*o*). He is said to have died in 1294; but he appears never to have been *Panetarius Scotiæ*, as the Scottish genealogists assert (*p*). As he had no issue, he was succeeded by his brother, Sir Andrew, who became celebrated as the associate of Wallace, when this illustrious patriot raised the standard of national independence. The firm and gallant Sir Andrew obtained his death wound at the battle of Stirling in 1297 (*q*). By his wife, a daughter of John Cumyn of Badenach, he left two sons, Andrew and John (*r*). Andrew inherited, with his father's estates, his patriotism and his gallantry. He became the associate of Wallace. He joined Bruce, whose sister, Christian, he married; and Sir Andrew Moray continued, till his death in 1338, to be the strenuous protector of David II., the helpless infant of the great Bruce. Such, then, were some of the most distinguished progeny of Freskin. When we see the blood of the Flemings defending, with such magnanimous perseverance, the country which had given them settlement, who would regret that he owed his origin to that accomplished and spirited race (*s*)!

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justiciary of Lothian, held the manor of Bothville at his death in 1242, twenty years after the death of William de Moray, who is said to have acquired the same manor by the marriage of an Olifard. Doug. Peer., 80.

(*l*) Chart. Dryburgh, 119, which shows that he was alive in 1278.

(*m*) He is called in the record Willielmus de Moravia filius Walterus de Moravia. Rym. Fœd., ii. 266.

(*n*) Guillam de Moref, Andrew de Moref, William de Moref de Drumsergard, and John de Moref, all sat in that Parliament. Ib., 471-2.

(*o*) Ib., 572.

(*p*) Ib., 547, 554, where he is simply called "William de Moravia"; in his charter to the house of Soltre he merely calls himself, "Willielmus de Moravia." Chart Soltre. 30. His successor Andrew de Moray is not called *Panetarius Scotiæ;* but the son of Andrew held this office in the reign of Robert Bruce, from whom he probably obtained it; and the genealogists have carried back this distinguished acquisition to his predecessor William. Chart. Dryburgh, 187.

(*q*) Fordun, lib. xi., c. 29.

(*r*) John is said to have obtained from his father the lands of Drumsergard, and by marrying the daughter of Malise, the Earl of Strathern, he acquired the lands of Ogilvie and Abercarnie in Perthshire, and John thus became the progenitor of the Morays of Abercarnie.

(*s*) It is now obvious from the most satisfactory evidence that some of the most numerous and eminent families in Scotland are derived from that race; the Sutherlands, the Morays, the Douglases, the Leslies, the Flemings the Inneses, and others of less distinction, all owe their descent to Flemish originals. The great family of the Percys came from Brabant, according to Camden.

Such were the numerous colonies of Flemings which settled in every district of North-Britain! Yet, Scotland neither owed the whole of her Saxon colonization, nor derived the body of her Teutonic speech from the Flemings, whatever may have been their numbers. The towns had their origin, generally, long before the Flemings began to migrate. It was in Lothian, among the Saxons, where the first towns arose. EDINBURGH owes its rise to Edwin the Northumbrian king. Jedburgh was founded by Ecgrid, the Bishop of Lindisfarne, during the ninth century. The very streets of Berwick and Roxburgh, and other towns were of old called after Saxon names, though the original appellation of the hamlets may have been Gaelic (*t*). The Celtic people had their hamlets and cil-tuns, to which they gave descriptive names in their own language; but when the Anglo-Norman settlers came in upon them, their first object obviously was to build a stronghold, around which the followers of the chief sat down, and thus formed a hamlet and sometimes a town. The policy, indeed, of the Scottish kings during the Saxon dynasty prompted the building of castles in convenient sites, for bridling the Celtic people; and it was under the protection of those strengths that towns arose, and industry began her career (*u*). The Gaelic people viewed all those measures with indignation; and when they rose upon the strangers after the capture of King William, in 1174, the foreigners fled to the King's castles for shelter (*x*). Such had been

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(*t*) In Roxburgh we see the Senede-*gate*. Chart. Dryburgh, No. 111. In Jedburgh we may perceive the Castle-*gate*. Chart. Kelso, No. 455. In Berwick we see Suth-*gate*, Walden-*gate*, and others. Chart. Newbotle, No. 208; Chart. Kelso, No. 34-46. We may observe in Hadington, Hard-*gate*, Nun-*gate*, Huddin-*gate*, from Huddin a settler in the twelfth century. Chart. Kelso, No. 41-62. There was "vicus dictus Syd-*gate* in burgo de Hadington." Chart. Newbotle, No. 239. In Peebles there were Bridge-*gate* and North-*gate*. In Edinburgh there are the Canon-*gate*, the Cow-*gate*. Ib., No. 206. In Ayr there were Sand-*gate* and Bridge-*gate*; and in Glasgow the Fisher-*gate*. Chart. Paisley, No. 249. In Perth we may see the Spey-*gate*, the Water-*gate*, the Kirk-*gate*, and Skinner-*gate*; and in Aberdeen the Broad-*gate*, the Castle-*gate*, the Kirk-*gate*. The same term was applied to the streets of the towns in the north of England. Ray's Local Words, 30. The most common name, we have thus seen, for the passages in towns was the Saxon *gat*, which assumed the form of *gate* in the Scottish and old English, as we may see in Chaucer and Spenser. In more recent times *gate* has given way to *street*, from the Saxon *stræt*, which has become the prevailing name.

(*u*) Fordun, l. v., cap. 53, informs us that David I. established towns and invited foreign traders to settle in them. The *Leges Burgorum* of David suppose that there was a castle with its *Castellan* at every town, as Fordun intimates. When William and his brother David with a great army marched into Ross, they there built two castles in 1179. Chron. Melrose, 174. Ayr was founded by William in 1197. Ib.

(*x*) William of Newbrig, l. xi., c. 34.

the progress of colonization that the towns and burghs of Scotland were in 1174 inhabited chiefly by English (*y*).

A policy of a very different kind was accompanied with the same salutary effects of settling new races of men and of promoting new modes of industry. The erecting of so many religious houses during the twelfth and thirteenth centuries was attended with all those beneficial consequences. A magnificent building which was dedicated to sacred uses was erected. The monks were chiefly drawn from England. They had their stipendiaries to whom they granted parcels of land on the condition of service, and their followers, consisting of various craftsmen, together with their *vileyns*, both male and female, who cultivated their several granges (*z*). And in this manner the settling of every additional religious house may be considered as the plantation of a new colony of a Teutonic race amidst the Gaelic inhabitants of North-Britain (*a*).

The Saxon colonization of Galloway might be illustrated, obscure as it is, in a similar manner. It was originally settled, as we have seen, by Cambro-British tribes (*b*). During the British period it was over-run by Saxons, who left some of their blood and a little of their language within its Celtic limits (*c*).

(*y*) Id. "Regni enim Scottici oppida & burgi ab Anglis habitari noscuntur." William of Newbrig, who, as he lived near the time in the north of England, had good opportunities of being well informed touching the facts. We may see in Rym. Fœd., t. ii., that the people of the Scottish towns who swore fealty to Edward I. in 1291, were equally English, if we may decide from their English surnames. The same fact is verified by Prynne, vol. iii., as to the persons who swore fealty to the same king in 1296. The Scottish kings during the Saxon period had been studious to invite foreign settlers into their towns, as we learn from the chartularies, as well as from Fordun. See particularly the Chartularies of Scone, of Inchcolm, of Balmerinach, of St. Andrews, and of Dunfermline.

(*z*) David I. granted several bondmen to the monks of Dunfermlin. Chart. Dunferm.: MS. Monast. Scotiæ, p. 107. Fragments of Scottish History, App., No. 1-11. William granted some vileyns to the monks of Scone. Chart. Scone, No. 34. Waldeve, the Earl of Dunbar, gave to the monks of Kelso, "Halden et Willielmus fratrem ejus et omnes sequelas eorum." Chart. Kelso, No. 127. Andrew, the son of Gilbert Fraser, gave to the same monks three acres of meadow in the manor of Gordon, with Adam, the son of Henry del Hoga, "nativo meo, cum "tota sequela sua." Ib., 123. Berenger de Engain granted to the monks of Jedburgh two bovates of land, "cum uno villano." Chart. Jedworth. Richard Germyn gave to the hospital of Soltre, Alan, the son of Tock, "et homagium suum et totam sequelam suam." Chart. Soltre, No. 51.

(*a*) In that manner were founded during the twelfth and thirteenth centuries in Scotland upwards of one hundred and ten monasteries and convents for English and foreign monks, exclusive of the establishments for the Templars. See Spottiswoode and Keith.

(*b*) Book i., ch. ii.

(*c*) See Book ii., ch. iii.

During the ninth century Galloway was new peopled by the Irish Cruithne, who overspread its surface and new named its places (*d*). At the commencement of the Scoto-Saxon period in 1097, Galloway was universally inhabited by a Gaelic people. And it required the continual colonization of six hundred years, by English inhabitants, before the Gaelic speech of the Irish colonists ceased to be the vernacular language of this great peninsula (*e*).

Such, then, are the proofs of the colonization of North-Britain by the English, Anglo-Normans, and Flemings, during the Scoto-Saxon period of her annals. This has been deemed, by great authority, a leading fact in the North-British annals (*f*). These proofs are as new as they are satisfactory. It was proved on a former occasion, as a moral certainty, that the whole inhabitants of proper Scotland were of a Gaelic descent at the end of the Scottish period (*g*). The additional evidence which has now been adduced from the chartularies carries that certainty up to demonstration. The time, place, and circumstance by which a succeeding people of a different lineage and a dissimilar speech colonized North-Britain during the long effluxion of the Scoto-Saxon period have at length been submitted to the reader's judgment. The very epochs when the earliest progenitors of the present people came into Scotland have been distinctly settled from the evidence of charters. These affirmative proofs are irresistible. If those early progenitors settled in Scotland *after* the commencement of the twelfth century, as record attests, they could not have been settled there "from a period of very remote antiquity." It is quite new in the history of this country to exhibit the settlement of a Flemish colony in almost every district of North-Britain. It was shown on a former occasion, by negative proofs, that the Scandinavian Goths had never settled within proper Scotland (*h*). The evidence which has been now adduced shows, with full conviction, that there is not a family in that country, whatever there may be in the Hebrides, who can carry up its pedigree to a Scandian origin. It has been proved by references to charters that the various Teutonic people of Scotland are derived from Anglo-Saxon, Anglo-Norman, and Anglo-Belgic colonists, in the recent times of the *Scoto-Saxon period* of her annals. These cumulative proofs form a new demonstration that the Teutonic inhabitants of North-Britain are descended, not from "*remote antiquity*," but from late colonization. Many children of the Celtic people have been, no doubt, converted from their maternal *Celticism* to the artificial *Gothicism* of the Saxon settlers. They may have been induced by interest to

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(*d*) See book iii., ch. v. (*e*) Buchanan's Hist., Book ii., s. 27 ; Stat. Ac., vol. vii., p. 59.

(*f*) Transact. of the Royal Society of Edinburgh, vol. v., part. iii., p. 29.

(*g*) See before, book iii., ch. xi. (*h*) Id.

imitate the Saxon manners; they may have been obliged by discipline to speak the Teutonic language. Yet, at the end of seven centuries of different changes, the Saxon colonists and their descendants have not been able, with the aid of religious prejudice and the influence of predominating policy, to annihilate the Celtic people, to silence the Gaelic tongue within proper Scotland, nor to obliterate the Celtic topography, which all remain the constant reproach of the Gothic system, as well as the indubitable vouchers of the genuine history of North-Britain.

CHAP. II.

Of the Civil History during this Period.

AFTER the full discussion in the preceding Chapter of the Anglo-Saxon Colonization of Proper Scotland, from documents which are as new in their nature as they are decisive in their inferences, it is full time to recapitulate the several conjunctions of separate districts and various people which formed at length one united kingdom. When we first threw our inquisitive eyes on the immediate descendants of the British Aborigines, they appeared as several tribes who were connected by very slight ties. When they were pressed by conquest they sought the greater strength of compression. The children of the *Caledonians* became a people under the new appellation of *Picts* (*i*) They flourished for ages till they were overpowered by the *Scots* in 843 A.D., who had the fortune to give their own name to the united kingdom of *Picts* and *Scots* (*k*). The Strathcluyd kingdom of the ancient Britons was united to the Scottish government in 975 by the prudent enterprise of Kenneth III. (*l*). The Gallowidian Scots, when they felt their weakness during adventurous times, acknowledged their Gaelic submission to the Scottish kings (*m*). Malcolm II. added a rich jewel to the Scottish diadem when he obtained *Lothian* in 1020 A.D. from a weak Earl of the Northumbrian dynasty (*n*). During the Scoto-Saxon period, we shall perceive in our progress, that the various territories forming the Scottish monarchy acquired nearly the extent and boundaries of modern times. On the south, the Tweed, the Solway, and the Kershope, with the intervenient heights, divided England from Scotland at the accession of Edgar, as well as at the demise of Malcolm Ceanmore. This boundary continued without change during the reigns of Edgar and Alexander I., his immediate successor. David I., who succeeded to both, had the good fortune to push that boundary so far southward as to acquire the two northern counties of England. The interest, however, of Henry II. induced

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(*i*) Book ii., ch. i.

(*k*) Book iii., ch. i. ii.

(*l*) Book iii., ch. v., s. ii.

(*m*) Book iii., ch. v., s. iii.

(*n*) Ib., ch. vi.

him, during the minority of Malcolm IV., to demand the restitution of those shires from the infant king, and his superior power enabled him to enforce what his ambition prompted him to require. Henry II. may be said to have extended his northern limits over the whole extent of Scotland when he obliged the captive William to surrender the independence of his kingdom (*o*). The generosity of Richard I., nevertheless, relinquished what the policy of Henry had extorted; and in 1189 the English monarch re-established the marches of Scotland, as they had been settled before the captivity of King William, and acknowledged from ancient times (*p*). No event occurred during the lapse of this period which disturbed the boundary that had been thus established by the genuine interests of the neighbouring kingdoms.

Lothian on the east and Galloway on the west were, during the Scoto-Saxon period, regarded by foreign powers as two considerable divisions of Scotland (*q*). As territories, they were meanwhile considered by the Scottish kings, who governed them under distinct jurisdictions (*r*). Before the commencement of this period, in 1079, Lothian and Galloway became so completely consolidated as to leave some doubt in prejudiced minds whether they had been settled by dissimilar people, and had been ruled by different laws.

The Western Islands during the Scottish period were inhabited, as we have seen, partly by a Gaelic people and partly by a Scandinavian race, who yielded a doubtful obedience to the Norwegian kings. At the beginning of the *Scoto-Saxon* period, while a civil war raged in Scotland, Magnus the Barefooted came in a powerful fleet among the Hebride isles and asserted his rights and enforced his authority. Neither Donal-bane nor Edgar, the Scottish kings, were able to contend with his irresistible force, had their pretensions been founded in right rather than assumed by historians from the suggestions of fiction (*s*). The policy of Alexander III. acquired by treaty in

(*o*) Rym. Fœd., i. 39. (*p*) Ib., 64.

(*q*) Ib., 218. (*r*) Rym. Fœd., i. 252; Skene's Old Laws; Anders. Diplom., pl. 35, 37.

(*s*) See before, book iii., ch. iv. Yet are we told by a late commercial annalist, on the weak authority of Snorro, that "in 1098 Scotland was deprived of Kintyre by a *quibble*." This *quibble* consisted in this: by a treaty which was never made between Magnus and Malcolm III., who had been dead some years *before* the irruption of Magnus, the Norwegian king acquired a right to all the Western isles, and drawing a boat across Kintyre, he claimed this peninsula as an island. D. Macpherson's Annals of Commerce, i. 313. This tale, which would do honour to the *Edda*, is worthy of such a romancer as Snorro, but is altogether unworthy of any writer who regards fact more than fiction. This event is supposed to have happened in 1098, and

1266 the kingdom of Man and the isles of the Hebridian seas, which his power could neither have conquered nor retained (*t*).

During the Scottish period the Orkney and Shetland Islands were in the same manner inhabited by a Scandinavian people, who, as they had been long habituated to predatory adventures, were not easily reduced to steady subjection. They were governed chiefly by their own earls, who only yielded a forced obedience to Norway. At the commencement of the Scoto-Saxon period, Magnus the Norwegian re-invigorated his authority over those islands, and compelled their earls to acknowledge his jurisdiction and yield submission to his power (*u*). Shetland and Orkney continued in subjection to Norway till the year 1468, when James III. gained, by the gentle mode of marriage, what he could not have acquired by the rough means of war (*x*).

At the sad epoch when the great barons were assembled by Alexander III. in 1284 to settle the dubious succession to the crown, they declared that the territories belonging to Scotland were the *isle of Man, the isles*, together with Tynedale and Penrith (*y*). Both *Man* and the Hebrides had been acquired, as we have seen, in 1266. Tynedale and Penrith were all that the Scottish kings retained of their English possessions. Edward I. took the Isle of Man under his protection in 1290 (*z*). At the conclusion of the Scoto-Saxon period it required a persevering struggle to retain even Scotland, the principal dominion, from the constant grasp of insidious ambition which was supported

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Snorro died by a stroke of assassination in 1241. Now, what could such a person as Snorro, living in such a place, know of such an event in such an age. None of the English historians, the Saxon chronicler, Florence, or Simeon, and indeed none of the Danish writers, take notice of such a treaty, or of such a trick, because none such ever happened. The sovereignty of the Hebrides did not belong to Scotland in that age, whatever the commercial annalist may think. Consequently Magnus could have no desire to acquire, either by treaty or trick, what already belonged to himself. Neither did Alexander III., when he purchased the Hebrides in 1266, acquire by treaty, Kintyre, which he knew was his own, from ancient descent and present possession. Nothing can be so injudicious as to bring forward, in such an age as ours, such absurd pretensions to any part of the British dominions, on the authority of a professed romancer, who is condemned by the graver sort of the Norwegian historians. See Ayloffe's Calendar, 343; and Robertson's Index, Introd. xi., and p. 101.

(*t*) There is a transcript of this treaty in a very ancient MS. in the Register-house at Edinburgh. It is printed in Torfæus' Hist. of Norway, iv., 343. It was confirmed by an agreement between Robert I. and Haco V., King of Norway, in 1312. Robertson's Index, p. 101.

(*u*) Orkneyinga Saga, 113-17; Torfæus's Orcades, 67-9.

(*x*) The marriage treaty is published in Torfæus's *Orcades*, 191.

(*y*) Rym. Fœd., ii.. 266.

(*z*) Rym. Fœd., tom. ii., p. 492. On the 28th of June, 1307, Edward took the Isle of Man into his hands, and assumed it as his own. Ib., p. 1058.

by a mighty force (*a*). It required all the fortune and valour of Bruce, with the perseverance and the magnanimity of the nation, to restore the monarchy to its ancient independence and its territories to their acknowledged limits. We must now proceed to narrate in successive progress the various events which led on to that happy result.

Edgar.

The son of Malcolm, by Margaret, an Anglo-Saxon Princess, became King of the united kingdom of North-Britain, at Michaelmas, 1097, while he was yet young (*b*). He enforced his title to a disputed crown after a fierce conflict by means of an Anglo-Norman army which was conducted by his uncle, Edgar Ætheling. The education which he had received from his mother, the experience that he had gained in Northumberland, the power which fixed his authority over North-Britain, all these incentives induced him to imitate the English customs rather than the Scottish in the usual administration of his feeble government (*c*).

Edgar had scarcely ascended the infirm throne of his father when Magnus, the enterprising King of Norway, appeared in the surrounding seas in order to compel the submission of his subjects in the Orkney and Hebride isles, and to plunder or overawe the people of the neighbouring shores of England, Man, and of Ireland. The King of Scots was little able to contend with the powerful Norwegian if his coasts had been invaded (*d*). Edgar was at length

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(*a*) The boundaries of Scotland were, however, restored by the Parliamentary declaration of Edward III. at York, on the 1st of March, 1327-8, to their ancient extent, as they had formerly been at the demise of Alexander III. This important document, which has not been much noticed by historians and lawyers, is preserved, according to the practice of that age, in the chartulary of Kelso, No. 470. See also Rym. Fœd., iv. 337; Lord Hailes's An., ii. 126. It is apparent, then, that every attempt of the English government to change those limits, either by force or fraud, was made in opposition to an English act of parliament.

(*b*) Saxon Chron., p. 206. On his great seal, he calls himself *Scottorum basileus,* in imitation of Edgar, the King of England, who affected various and sounding titles. Edgar is the first of the Scottish kings who is represented on his seal, sitting on a throne, emblazoned with the attributes of majesty. If he were born in 1070, he must have been 27 at his accession. If he were born in 1075, he could have been only 22 years old.

(*c*) Edgar is said to have been the first King of Scots who was *anointed* by the Bishop of St. Andrews, *under a licence from the Pope.* Martin's Reliquiæ divi Andreæ, Chap. xi. of the Bishops.

(*d*) It is said, indeed, in the Chronicon of Man, that "Magnus humbled the Gallowaymen, "so effectually, that he obliged them to cut down timber, to carry it to the shore, and to fix "it on his entrenchments." Edit. Johnstone, p. 11. But we hear of no conflict, and still less of any treaty.

relieved from all apprehensions by the death of Magnus, who, in the north of Ireland, met the fate which his piratical adventures amply merited in 1103 (*e*). Edgar considered William Rufus, who died in 1100, more as a benefactor than as an opponent. Henry I. married Matildis, the sister of Edgar, in the same year. Owing to those causes he prudently avoided any dispute with England. Edgar gave his sister Mary to Eustace, the Count of Boulogne, in 1102; and his interests or his weakness led him not to interfere with the embroiled affairs of the European continent.

Meantime the unhallowed disputes between the Emperor and Pope prevented the consecration of Godric, the Bishop elect of St. Andrews. The gratitude, however, or the piety of the Scottish King, conferred many churches and lands near Berwick on the monks of St. Cuthbert at Durham (*f*). He gave to the Culdees the church of Portmoak in Kinross, and to the monks of Dunfermline, Gellald (*g*); but he had not the merit of founding any religious house during a religious age. He died at Dun-Edin, without issue, on the 8th of January, 1106-7. He was characterized as an amiable man, resembling in all things Edward *the Confessor.* From the silence of history we may infer that there were not, during this reign, any events to record (*h*); and from that circumstance we may suppose, and from the feebleness of his character conclude, that the authority of Edgar was scarcely recognized within the largest portion of his kingdom.

ALEXANDER I.

Assumed the tarnished sceptre which his brother's demise had placed in his firmer grasp. One of the first acts of his reign was to acquiesce in the dispo-

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(*e*) Chron. Melrose sub an. 1098; An. Ulster; Sax. Chron., p. 206; Torf. Hist. Norw., t. iii., p. 441-6. Magnus found lasting repose in the abbey of Cluen.

(*f*) Edgar's charters may be seen in the Appendix to Smith's Bede, No. xx., and in Anderson's Diplomata. From those documents, it appears that Coldingham, which existed as a religious house before the age of Bede, was now transferred by Edgar to the monks of St. Cuthbert. Yet, it is said that Edgar founded a priory of Benedictines at Coldingham. Lord Hailes's An., i. 48; and for this position, which is countenanced by those charters and by Fordun, there appears some evidence. Spottiswoode, 435. Wyntoun sings, indeed:

"Coldyngam than fowndyd he,
"And rychely gert it dowyt be."

(*g*) Crawf. Officers of State, Ap. 430; Chart. Dunferm.; Sir Ja. Dalrymple's Coll., 383.

(*h*) Wyntoun is however, mistaken, in saying that Edgar ended his days in *Dundee*; as we know from the register of St. Andrews, that he died in *Dun-Edin,* the Edinburgh of the Saxons.

sition which Edgar had made of his dominions. The country on the north of the Friths Alexander was to enjoy as king; the districts on the south of those dividing waters, except Lothian, were assigned to David their younger brother as his appanage (*i*). The policy of Henry I. concurred with the interest of Alexander to cultivate mutual amity, which happily preserved the peace of the neighbouring kingdoms. These ties were further strengthened by the marriage of the Scottish king to Sibilla, the natural daughter of Henry I. With the continental states he appears not to have had much communication. The division which Magnus had made of his dominions among his three sons, removed, indeed, all fears of the naval power of Norway. He was, however, called into the northern parts of Scotland during the year 1120, to chastise the insolence, or to enforce the obedience of his subjects in Moray, who rose under Angus, their Maormor, the grandson of Lulach the late king, to claim the crown for their chief (*k*). From the promptitude with which he quelled that insurrection, though Angus remained unsubdued, he was thenceforth called by his people, Alexander the *fierce* (*l*). His whole reign of seventeen years seems to have been disquieted by the ecclesiastical pretensions of the Archbishops of York and Canterbury; yet the Scottish king maintained the rights of his country, and the independence of his government with steady

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(*i*) Alexander as king confirmed by several charters to the monks of St. Cuthbert the lands which his brother Edgar had conferred on them near Berwick. Anderson's Diplomata, pl. viii. David, *Comes,* during the reign of Alexander also confirmed the same rights, and exercised a distinct jurisdiction over those monks and their lands in Coldingham. Ib., pl. x. One of his charters is tested by Matildis the queen and William her son. There is a charter of Thor-longus wherein he prays David, Comes, "Sicut dominum meum karissimum," to confirm Ederham to the monks *for ever.* Smith's Bede, Ap., xx. There is a *fac simile* of this curious charter in Anderson's Diplomata, pl. lxx. The *Inquisitio Davidis* in the chartulary of Glasgow proves that he granted lands and exercised jurisdiction in Teviotdale and Tweeddale. As David, *Comes,* he founded the abbey of Selkirk "while Henry reigned in *Anglia,* and Alexander in "*Scotia.*" Chart. Kelso, No. 4; Sir Ja. Dalrymple's Coll., Ap., iv. These incontrovertible documents demonstrate what has been little noticed by history, that Earl David enjoyed the countries on the south of the Friths, if we except Lothian, while Alexander reigned in *Scotia.* Chart. Scone, No. 1. The king was not of a temper to submit passively to the disposition of Edgar; but David was supported by the voice of the country, and was protected by the favour of Henry I.

(*k*) Eadmer, 132; Wyntoun's Cronykil, i., 283; Shaw's Moray, 213.

(*l*) We are told by Wyntoun that—

"Fra that day hys Legys all
"Oysid hym Alysander *the Fers* to call."

perseverance and ultimate effect (*m*). Alexander died at Stirling without lawful issue, on the 27th of April 1124 (*n*). He appears to have been a prince who was well instructed, both in letters and in policy; he was courteous to his ecclesiastics, but he was austere to an uncivilized people who paid little obedience to laws which they did not understand. During so rude an age, Scotland had cause to regret a sovereign of so much knowledge and vigour as Alexander possessed and exercised for the benefit of his kingdom.

DAVID,

The youngst son of Malcolm and Margaret, immediately occupied the vacant throne. The demise of Edgar left him in possession of the extensive countries from the northern limits of England on the south, to the river Forth and Loch Lomond on the north; and he was Earl of Northampton in consequence of his marriage with Maud, the Countess. The reign of David forms an epoch in the history and jurisprudence of Scotland. By attending the court of so accomplished a prince as Henry I., he acquired a knowledge of the laws of England, and gained experience in the art of government (*o*). After the decease of Simon de St. Liz, Henry bestowed his widow on David in 1110 (*p*). The Countess brought her second husband his son, Henry, in 1115 (*q*), and on the 27th of May 1124, David mounted the unsteady throne which an able brother had supported with some opposition but with final success.

The duty of the Scottish king immediately called him to the difficult task of defending the independence of the Scottish church against the pretensions of the Archbishop of York and the prejudice of the Pope (*r*). His prudence finally disappointed both. His attention was soon after drawn to an insur-

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(*m*) Lord Hailes's An., vol. i., p. 49. Alexander was the first of the Scottish kings who introduced the use of a great seal with a double impress of equal grandeur. He appears not to have had any counterseal. He was also the first of the Scottish kings who introduced among his people the commodious measure of *coins*. Lord Pembroke's Coins.

(*n*) If we may believe Ordericus Vitalis, p. 702, Alexander I. left a bastard son *Melcof*, who rebelled against David I., affecting a right to the crown.

(*o*) David went into England to his sister as early as 1105. Mat. Paris. David, Comes, was the last witness to a charter of Simon, the Earl of Northampton, whose widow he married. This charter was confirmed and signed by Henry I. and Matildis, the sister of David. Dugdale's Monast., i., 680. On his seal the inscription is, "Sigillum Davit Comitis Anglorum Regine Fris." And. Diplomata, pl. x.

(*p*) Dug. Monast., i., 679; Kennet's Par. Antiq., 81; Malmsbury, 158.

(*q*) Ken. Par. Antiq., 93; Sim. Durham, 256.

(*r*) Sim. Durham, 252.

rection in Moray which had for its first object an opposition to his laws, and for its ultimate end the overthrow of his government. In 1130, Angus, the Earl of Moray, as the grandson of Lulach, and his adherents were defeated after they had penetrated far into the south (*s*). David was zealously supported by the martial barons of Northumberland with the experienced Walter L'Espec at their head; and strengthened thus by their presence and alacrity the Scottish king marched with the whole force of his southern dominions against the northern insurgents. At Stracathro, one of the passes in Forfarshire, he gave them an entire defeat (*t*). The Celtic people of Moray rose against Alexander, as we have seen, in opposition to his government. The Earl of Moray, who claimed a title to the throne as the heir of Lulach, now disputed David's right to the crown (*u*). We shall perceive the same people or their descendants equally rise against the authority of Malcolm IV. in opposition to rules of law which they did not understand, and to modes of government that were to them odious because they were new.

In the mean time David had neither disputes nor intercourse with the continental powers. His whole reign seems to have been occupied in supporting the rights of his family and promoting in England the interests of his kingdom. He spent much of the year 1126 at the court of Henry (*x*). At Windsor in the subsequent year he took an oath, with other English barons, to maintain the rights of the King's daughter, the Empress Maud (*y*). This transaction engaged David in endless negotiations and involved his people in many miseries.

The death of Henry I. in 1135 was the inauspicious signal for civil war. Stephen, the Earl of Mortaigne, his sister's son, seized the vacant throne, notwithstanding his own oath and the most solemn engagements of the English barons. Of his promise David was more mindful. With inconsiderate ardour he seized almost the whole country as far as Durham, obliging the northern barons to swear fealty to Matilda. On the approach of Stephen with a powerful army David retired to Northumberland. At Newcastle the two

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(*s*) Chron. Melrose, 165; Chron. St. Cruce, Ang. Sacra, i. 160; Ulster Annals.

(*t*) The experienced Robert Bruce, when dissuading David from fighting *the Battle of the Standard*, disclosed several intimations with regard to those events which are nowhere else to be found. From those notices it appears that shipping were sent from the ports of Northumberland, which no doubt carried provisions for David's army. Aildred, 345; Ordericus Vitalis, 702-3.

(*u*) The claim of Angus was by no means ill-founded; as he was lineally descended from Kenneth IV., the son of Duff, the eldest son of Malcolm I.; while David was descended from Kenneth III., the youngest son of Malcolm I.

(*x*) Sax. Chron., 230.

(*y*) Id.

kings, who were nearly connected by marriage, entered into an ineffective treaty (*z*). David relinquished the country which he had possessed : Stephen engaged to confer on Henry, the heir of the Scottish kingdom, the honour of Huntingdon, Doncaster, and the territory of Carlisle. For these Henry did homage to Stephen, as his father David had refused to perform the feudal ceremony for his English possessions (*a*).

The war, which was equally wasteful and inefficacious, was renewed by David in 1136 during the absence of Stephen in Normandy. Incursions were made on both sides which only ruined the borders without gaining an object. While Stephen was hard pressed by the barons of the south, David entered Northumberland with a greater and more various army. According to the most barbarous practice of the age the land was laid waste and the people were sent into bondage. The northern shires, in the absence of Stephen, had no other resources but their own valour and the policy of Thurstin their Archbishop. The barons with their vassals readily obeyed his summons to meet at Thirsk. They voluntarily submitted, however, to the military command of Walter L'Espec an experienced warrior ; and they were animated by all the motives which a sense of religion, affection for their families, and attachment to their country, can inspire into manly bosoms. The English army was inspired by one soul. The troops of David, who were composed of various lineages, were actuated by many jealousies and were divided by several pretensions (*b*). While the Scottish tribes were engaged in altercations the English raised their consecrated standard on Cutton-moor near Northallerton ; a circumstance this which conferred on the subsequent conflict the name of *the Battle of the Standard.*

Walter L'Espec, whose experience had taught him that *the battle is not always to the strong,* thought it consistent with his usual wisdom to prevent further hostilities by negotiation. He sent Robert Bruce, the Lord of Annandale, to David, whose friend he had been, in order to convince him of the uncertainties of war and the felicities of peace. The speech which the historian assigns to Bruce on that occasion contains many curious facts and much pathetic argument. David was moved but not persuaded. When Bruce

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(*z*) Stephen was Earl of Boulogne in right of his wife Matildis, the only child of Mary, the sister of David. Lord Hailes's An., i. 67. (*a*) Ib., 68.

(*b*) Besides Normans, Germans, and Northumbrians, David had with him the people of Galloway, the Britons of Strathclyde, the men of Teviotdale and Lothian, the warriors of the Isles, and the clans of Lorn. Much of the weakness of Scotland has always consisted in the various races of her people, who spoke dissimilar languages, and were actuated by different motives.

renounced his allegiance to the Scottish king, those old companions in arms burst into tears. Here the negotiation ended, and the spirit of discord going out upon the field inspired both the armies with enmity, which was embittered by disappointment.

The men of Galloway, who claimed from ancient custom the dangerous privilege of commencing the conflict, raised their usual war-cry and rushed on to battle (*u*). Their onset was furious and persevering, they disordered the foremost ranks of their opponents. But the English archers repulsed them with the loss of their two chiefs, Ulgric and Dovenal. Earl Henry, the King's son, gallantly charged through the main battle, which had been weakened by its own efforts, and with the precipitation of youth attacked the rear-guard. The Galloway-men attempted to renew the fight. But the invading army hearing that the king was slain were seized with an irrecoverable panic. It was in vain for David to bring up the reserve, he only found that the field was lost and that his own person was exposed to danger. The dismay and flight became general. The Battle of the Standard was fought on the 22d of August 1138, and furnishes another example, since the conflict of Thimbria, how often unanimity overpowers numbers, and skill overcomes valour. David made his retreat with some difficulty to Carlisle. Here a council of the Scottish prelates and nobles was held by Alberic, the Pope's legate. By their authority many abuses were now corrected. The legate tried to soften the hardships of war, by inducing the various tribes who composed David's army, to engage that they would not in future violate churches, nor murder old men, women and children (*x*). This singular engagement proves, with strong conviction, the savageness of the people and the barbarity of the age.

David soon after reduced the castle of Wark, and showed that he was still formidable notwithstanding his defeat and the mutiny of his army. Reconcilement was so much the interest of both the parties, that Matildis, who was the wife of Stephen, and the Niece of David, did not find it very difficult to induce the hostile kings to listen to proposals of peace. After a short truce a treaty was concluded at Durham on the 9th of April, 1139, by it Stephen ceded to Earl Henry, Northumberland, except Newcastle and Bamborough; the Barons who held lands of the Earls of Northumberland were now to hold them of Henry, saving their allegiance to Stephen; the laws which had been established

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(*u*) Aildred, 345. Hoveden has happily preserved the war-cry on that signal occasion; it was, Albanich! Albanich! Albanich! Saville, 483.

(*x*) J. Hagustald, X. Script., p. 264; Lord Hailes's Councils, p. 3.

for Northumberland by Henry I. were to remain in force (*y*). In return, David engaged to maintain perfect amity with Stephen and to give hostages according to the practice of the age for his faithful performance.

Yet, after the captivity of Stephen, David repaired to his niece, the Empress, and attended her during her flight from Winchester in 1141; but, finding his counsels slighted, he returned to the nobler task of civilizing his people by the arts of peace. The quiet of the country was, however, disturbed, and the progress of improvement retarded by the frequent irruptions of an adventurer called Wymund, who pretended to be the son of the late Earl of Moray, between the years 1134 and 1156. It is a strong proof of the ignorance of the age, and the attachment of the people, that the supposed son of their late Maormor should have occupied the whole force and policy of David, during a dozen years, to bring such an adventurer, not to justice, but to a compromise (*z*).

In the meantime, Henry of Anjou, the son of the Empress, visited David at Carlisle during Whitsuntide 1149. He received from David the honour of knighthood, which in that age was deemed of great importance (*a*). In return, Henry made oath that on his acceding to the crown of England he would restore Newcastle to David, and cede to him for ever the country which is situated between the Tyne and Tweed. They also entered into measures for dethroning Stephen; but, as those transactions began with breach of treaty, they ended in disappointment.

A more severe disaster awaited David. On the 12th of June 1152, died his son and heir, Henry, a youth of the fairest hopes, who left by the Countess Ada, three sons and three daughters (*b*). These were at present the only consolations of the aged king. Malcolm, his eldest grandson, who was now in the eleventh year of his age, he sent in a solemn progress under the guardianship of Duncan, the Earl of Fife, through every district of Scotland, where he was proclaimed and received as heir of the crown, according to the practice of an age, in which the efficacious voice of the law was seldom heard; this solici-

(*y*) Hoveden, 482; Chron. Melrose, 165. From this time Henry assumed the title of Earl of Northumberland. His baronial seal may be seen in Anders. Dipl., pl. 20, with the following inscription: "Sigillum Henrici Comitis Northumberlandie Filij Regis Scotie." The same year Earl Henry married the Countess Ada, the daughter of the Earl Warrene. Chron. Melrose, 166.

(*z*) Fordun, lib. viii., c. ii.; Chron. Melrose, 165-7; Chron. St. Crucis, sub an. 1157; Will. Newbrig, i. 24.

(*a*) Chron. Melrose, 167.

(*b*) As Henry came of age in 1136, he must have been born in 1115. Kennet's Par. Antiq., 92. For his character by Ethelred, see the Decem Scriptores, p. 368. His eldest son, Malcolm IV., was born in 1142, William the Lion in 1143, and David the Earl of Huntingdon in 1144.

tude of the prudent David seems to imply that he suspected there were still latent claims to the crown existing in the Gaelic hearts of the people. To his second grandson, William, he destined the litigated territories in the Northumbrian regions. Him he presented to the Northumbrian Barons from whom he demanded a promise of obedience, taking hostages for the performance of engagements which were probably regarded as only contingent. This investiture embittered the whole life of William and involved his people in endless miseries. Worn out with solicitude at the age of seventy-three David died at Carlisle on the 24th of May, 1153. He has been held up by historians, who were not addicted to flattery, as *the perfect examplar of a good king.* David was, undoubtedly, an excellent man and a beneficial sovereign: if he had acted with less zeal as an English Baron and more policy as the Scottish king, his character would have approached nearer to perfection. David may be considered, however, as the salutary reformer of his country, the wise institutor of the municipal law of North-Britain: he founded towns and he enacted the *Leges Burgorum.* He may be deemed the munificent founder of her church for the improvement of his people who were mixed from various descents and rude from ancient habits (*c*); and David introduced, as we have lately seen, so many Anglo-Saxon, Anglo-Norman, and Anglo-Belgic Barons into every district of North-Britain that he may be said to have new peopled his realm with novel races of men who were the great supporters of his crown and the strenuous defenders of his kingdom.

MALCOLM IV.

Succeeded in the twelfth year of his age to the manly task of defending with firmness what his grandfather had acquired with difficulty. Here commences what may be regarded as one of the greatest infelicities of Scotland, and what was unknown during her ancient policy, the frequent recurrence of minorities in her government. Malcolm was soon called out to defend his country from invasion. On the 5th of November, 1153, Somerled the Lord of *the Isles,* an Hebridean chief of great influence, invaded Scotland to satisfy his desire of adventure as much as to vindicate the rights of the children of Malcolm, the assumed name of the impostor Wymund, who had married his

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(*c*) The pious gratitude of Urban III. bestowed on David the title of "Princeps Catholicus et "Christiani Fidei ampliator." Chart. Glasg., 115.

daughter, and who had equally disturbed the firmer administration of David. After various conflicts Somerled was repulsed but not subdued. The peace with that potent chieftain in 1153 was deemed of so much importance as to form an epoch in the dating of Scottish charters (*d*).

The demise of Stephen, the King of England, in 1154, and the accession of Henry II. in the same moment, soon called Malcolm to exercise his policy rather than his power. Henry II., instead of performing his solemn engagements that he would cede to David or his heirs the country lying between the Tyne and the Tweed, demanded the restitution of those territories which Malcolm held in England. Prudence induced him to relinquish what his strength could not defend against a prince of such abilities as Henry II. (*e*). In return the King of England conferred on Malcolm the honour of Huntingdon, which did not contribute to his own independence, and did not prevent the indignation of his people. But Malcolm IV., it must be remembered, was still much under age (*f*); and is said to have been the ward of Henry II., who undoubtedly gave him a corody (*g*) in 1157, when he did homage to the English king as his grandfather had done, saving all his dignities.

Such were the manners of the age that Malcolm, for the honour of knighthood, seemed ready to surrender the independence of his kingdom. This

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(*d*) Shaw's Hist. Moray, p. 392.

(*e*) The English and French chroniclers seem to concur in representing that Malcolm rendered on that occasion Carlisle, Babenburgh, Newcastle, *et Comitatum Ladonensum.* The Scottish historians deny that Malcolm relinquished even the sovereignty of Lothian, to which Henry II. had not the least claim. Lord Hailes wrote a dissertation in order to controvert the representations of Lord Lyttelton on this point. Remarks on the History of Scotland, p. 41-88. Lord Hailes endeavours to show that there was a Lothian in England, as well as in Scotland. I am not convinced by his labours: my researches have satisfied me that there never was any where but one Lothian. In answer to Lord Lyttelton, whose notions and language are altogether modern, it had been quite sufficient to have said that the chroniclers which he quotes as his authorities opposed their assertions to charters, and their arguments to facts. I will, however, subjoin what would have strengthened the argument of Lord Hailes. The *Clavis* to the *Yorkshire dialect,* 1696, p. 80, would have informed his Lordship that the Yorkshire apenines were called by the country people the *wolds, woulds,* or *wauds;* but what lay *under the hills,* or the *low lands,* upon the Humber and the Ouse, they denominated the *Lowths.* We know from record what the grandfather of Malcolm IV. considered as *Lothian.* In a charter of David I. to the monks of Durham, he confirmed to them "has terras, *in Lodoneio,* scilicit, Coldingham, Aldcamus, Lumisden, Riston, Remington, Swinewood, Prendergast, Eyton, Cramesmuth, Lambton, Paxton, Fishwic, and Swinetun." Chart. Coldingham; MS. Monast. Scotiæ, 17. Now all those places are known at this day to be within Berwickshire, on the northern side of the Tweed.

(*f*) Yorke's Union of Honour, p. 165; Madox's Excheq., i. p. 539.

(*g*) Madox's Excheq., i. p. 207. Malcolm also enjoyed divers lands in Northamptonshire. Ib., 539.

propensity arose from one of the principles of chivalry in those romantic times, which supposed that a king could not be crowned till he had been knighted. When his barons saw Malcolm serving on the continent, in the army of Henry, the indignant nobles broke out into insurrection. But the interposition of the clergy, and the vigour of Malcolm, calmed their ruffled spirits (*h*).

In the meantime, the standard of rebellion was raised amidst the mountains of Galloway, where independence had ever resided. The Celtic people saw with jealous eyes the gradual introduction among them of the Anglo-Norman laws and Anglo-Saxon people. Their resentment rose into revolt. In 1160, Malcolm led a discontented army into Galloway; and he was twice repulsed. In a third attempt he overpowered the insurgents in battle. Fergus, the Lord of Galloway, bowed down to his superiority, gave his son Uchtred as a hostage, and assumed himself the habit of a canon-regular in the Abbey of Holyrood, where he died in 1161 (*i*).

By that example, the people of Moray who equally affected independence were not terrified. They also perceived with indignant apprehensions, the Anglo-Norman jurisprudence intrude upon their Celtic customs, and Anglo-Belgic colonists settle in their Gaelic country; they likewise raised the standard of revolt, in support of their native principles, and in defence of their ancient laws. But, after a violent struggle, Malcolm obliged them in 1161 to submit to his power without understanding his policy. The Moray-men are maligned by history as a people who were not to be allured by largesses, bound by treaties, nor influenced by oaths. Malcolm is said, though without any proof of an egregious improbability, to have removed the inhabitants of Moray from their ancient seats, and to have planted their lands with new people (*k*).

(*h*) Chron. Melrose, p. 168.

(*i*) Chron. St. Cruce in Anglia Sacra, i., 161-2; Chron. Melrose, 168. Fergus, the Lord of Galloway, was the common progenitor of Bruce and Baliol and of other great families, probably by Elizabeth, a natural daughter of Henry I. Yorke's Union of Honour; Hoveden, p. 539.

(*k*) Fordun, lib. viii., c. 6; Shaw's Moray, 213-15; Lord Hailes's An., i., p. 107. Fordun, who was the first who talked wildly about the Moray-men, did not see that they were a distinct people from the Scoto-Saxons, neither did he understand that they spoke a dissimilar language and practised different customs. The struggles between those two races of men which began, as we have perceived, during the reign of Alexander I., continued till the battle of Culloden decided the contest in 1746. The dispossessing of a whole people is so difficult an operation, that the recital of it cannot be believed without strong evidence. It is indeed certain that new laws were introduced, that new officers were appointed, that new castles were built, that foreigners were planted among them. The charter of Innes was granted at the moment of that revolt to *Berowaldus Flandrensis,* to Berowald the Flandrekin. Shaw's Hist. of Moray, 391. In that age also, as we have seen, Freskin, a Fleming, the genuine progenitor of all the Morays, obtained some of the

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Amidst those domestic insurrections, Somerled, the powerful Lord of the Hebride Isles, prepared to make another attempt, in addition to the various invasions of a dozen years. He came into the Clyde with a considerable armament; and he landed, in 1164, near Renfrew, the seat of the Stewart of Scotland: but Somerled was encountered by the gallant inhabitants, who gave him a decisive blow, which, as they slew the chief, with his son, Gillecolane, closed the restless adventures of an ambitious man (*l*).

Malcolm, at the age of twenty-four, however, by his vigour, triumphed over all his adversaries. But, he did not long enjoy his good fortune; as he died of a lingering disease at Jedburgh, on the 9th of December, 1165 (*m*). The events of his reign exhibit his character in a very different light from the gross caricatures of the Scottish historians. In these he appears with the features of impotence and incapacity; the facts of his life depict him as a youth with some imprudence but more magnanimity, who was very capable of planning and executing measures of a hazardous policy for the interest of his people (*n*).

WILLIAM,

The brother of Malcolm, was crowned on the 24th of December, 1165 (*o*). In the subsequent year he repaired to the court of Henry II., in order to solicit what formed the great object and infelicity of his reign—the restitution of Northumberland, in which he had been infeft by his grandfather, David I. With youthful impatience he passed into France, in order to serve under the banners of Henry II., though his counsellors informed him how much indignation this inconsiderate step had raised against his predecessor. Henry II. was not a prince who was to be captivated by such attentions. That politic monarch amused him with fair promises, and consented to prolong the truce with Scotland, because his own interest consisted in preserving peace on his northern borders during his war on the continent.

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best districts in the lowlands of Moray, whereon he built the castle of Duffus. In those novelties we may find the true causes of the frequent revolts of the Moray-men, and of the fictions of Fordun, which have been re-echoed by Lord Hailes.

(*l*) Chron. Melrose, 169.

(*m*) Chron. Melrose, 169; Annals of Ulster; Bromton, 1059; Wm. of Newbrig, p. 83-4-5, 116, 166-7.

(*n*) Will. of Newbrig: and see some curious anecdotes of Malcolm IV. in Bromton, 975.

(*o*) Chron. Melrose, 170.

The tedious effluxion of a twelvemonth made William feel that he had been amused with fruitless hopes; and in 1168 he sent ambassadors to France in order to negotiate an alliance with that kingdom against England. This is the first negotiation between Scotland and France of which we have any authentic information (*o*). The real interest of the two weaker powers concurred on that occasion in a common measure against a too powerful opponent. The Scottish king, however, soon after did homage to Henry for the lands which he impoliticly possessed in England.

William incessantly solicited the restoration of Northumberland, though he might have seen, in the excuses of Henry, the determination of his adversary to retain what his own impotence could not enforce. He was thus stimulated to enter into a confederacy with Henry's son against his father. In 1173, inroads were made on both sides which only wasted the borders and embittered the spirits of the two kings, without gaining any reasonable object. In the subsequent year William made a more unfortunate incursion. With a numerous but undisciplined army, consisting of Scots, Galloway-men, and Flemings, he laid siege to Alnwick castle; and such was his inattention that he allowed himself to be carried off, on the 13th of July 1174, from the midst of his army, a captive by a gallant band of Yorkshire Barons (*p*). The Scottish king was conducted to the presence of Henry at Northampton, with such circumstances of insult, as rather disgraced the English sovereign than degraded the captive monarch. Henry sent his prisoner to Falaise in Normandy, in order to exhibit to the continental powers his good fortune and his triumph. On the 8th of December 1174, the Scottish people bought the freedom of their inconsiderate king at the expense of their country's independence. William became the liege man of Henry; he surrendered the castles of Roxburgh, Jedburgh, Berwick, Edinburgh, and Stirling, and he gave his brother David and some of his principal Barons as hostages for the faithful performance of this disgraceful treaty. The Scottish clergy, however, by an effort of address and fortitude, which does them great honour, saved the independent rights of their national church.

The captivity of William, with his principal ministers, was the signal for enkindling a civil war in Galloway, and for raising the standard of insurrection throughout Scotland. Fergus the Lord of Galloway, who died in 1161, left two sons, Uchtred and Gilbert. According to the ancient custom of the

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(*o*) Lord Lyttelton's Henry II., iv. p. 218; Lord Hailes's Annals, i. p. 112. This may be properly named the *old league with France.*

(*p*) Will. of Newbrig, lib. ii., c. xxxiii.; Lord Lyttel. Hist. Henry II., iii. p. 148.

Gaelic people in that region, the lands of the father were divided between the two sons. Uchtred and Gilbert, as dependants, attended with their fighting men the Scottish king when he invaded Northumberland. The king's disaster was a sufficient intimation to the men of Galloway to retire into their native wilds. They slew the subjects of Scotland, English, and Norman who had settled in their country; they expelled the king's officers, and threw down the king's castles (*q*). They now proceeded to murder each other. On the 22nd of September 1174, Gilbert assassinated his brother Uchtred with peculiar circumstances of savage barbarity. In the subsequent year William, as soon as he had regained his liberty, marched into Galloway in order to chastise Gilbert; but the Scottish king accepted a pecuniary satisfaction, according to the ancient custom, instead of executing rigid justice. In 1176, Gilbert attended Henry at York, did him homage, and was received into favour. Henry II. is said to have sold his protection to the fratricide for a thousand merks (*r*).

Incited by the powerful protection of the English monarch, Gilbert, in 1184, carried devastation into Scotland. The fears, or the impotence of William, offered a compromise to the savage Lord of Galloway; but he was of a temper to prefer the uncertainties of hostility, amidst a rude people, to the gratifications of peace. From such a character the world was freed by his death in 1185 (*s*). In this year William, his brother David, and his Barons, met Henry II. at London, to consult touching a supply for the holy land (*t*).

The decease of Gilbert roused to action Roland, the gallant son of Uchtred. On the 4th of July 1185, he totally defeated the vassals of the late Lord, and slew Gilpatrick their leader (*u*). He equally subdued the hordes of banditti, which the civil war had spread over an unhappy land; and by those successes he possessed himself of the whole extent of Galloway. At the enterprises of the intrepid Ronald, Henry was incensed as much as William was gratified. The English monarch assembled in 1186 a great army at Carlisle, with design to invade Galloway. Roland was not dismayed. He fortified, by those natural means which were in his power, the passes of a strong country, which he resolved to defend. The interest of all parties concurred in dictating a compromise. Roland agreed to submit to the English judicatories the decision of what had been possessed by Gilbert, and was now claimed by his son Duncan;

(*q*) Hoveden, 539.

(*r*) Hoveden, 541-555. The fact is that in 1180, Gilbert the son of Fergus, was charged in the English Exchequer with the enormous sum of £919 9s. 0d. for *the good will* of Henry. Madox Excheq., i. p. 473.

(*s*) Crawfurd's Peerage, 155. (*t*) Madox's Excheq., i. p. 20. (*u*) Chron. Melrose, 176.

and Henry, having thus enforced his favourite policy of subjugating Scotland, granted peace to Roland. William, on his part, feeling that his own independence was compromised, tried to settle a contest which was so fatal to himself and his people. In 1186 he granted the district of Carrick, which formed a considerable part of ancient Galloway, to Duncan, as a full satisfaction for his various claims; and in the final settlement of the civil war of Galloway, we may see the erection of a new earldom and the commencement of a family which was destined to give to Scotland a new series of kings in the person of Robert Bruce (*u*).

Meanwhile disturbances arose in every district of North-Britain. The Gaelic people rose upon the new settlers and forced them to seek shelter in towns and castles. In Ross-shire, where the inhabitants were by habit little obedient to law, and were easily misled by any bold pretender, the people broke out into insurrection. In 1179 William marched into the north, where his superiority commanded submission. In Ross he built two strengths, which did not, however, ensure lasting quiet, while the business of peace was less followed than the tumult of hostility (*x*). In 1187 Donal, the son of William, the grandson of Duncan, the bastard king of Scotland, disturbed the tranquility of the north by his pretensions to sovereignty. He took possession of Ross, and he wasted Moray. The Scottish king led an army against this pretender to his crown. In the vicinity of Inverness Roland, the gallant Lord of Galloway, decided the fate of Donal on the 5th of July, 1187, when he slew him in the accidental rencounter of a foraging party (*y*). His head was triumphantly brought to William, as a savage sign of returning quiet, by the overthrow of usurpation. It is a sufficient proof of the ignorance and barbarity of the times, that any audacious imposter was able to raise a sufficient force to maintain a vigorous war against the whole efforts of the royal power.

During the year 1188, Henry II. sent Hugh, the bishop of Durham, and several clerks into Scotland to collect a *disme* for the Holy Land, but steady opposition allowed them very little success (*z*). Henry offered to restore the castles of Roxburgh and Berwick if William would pay the tenths of the kingdom for the holy war; yet the barons and clergy indignantly said in Parliament "that *they* would not, although *both* the kings should have *sworn* to "levy them" (*a*).

(*u*) Ford., viii., c. xl.; Crawfurd's Peer., 69; Dougl. Peer., 126. (*x*) Chron. Melrose, 174.

(*y*) Chron. Melrose, 177; Fordun, lib. viii., c. xxviii. There is reason to believe that Donal, who assumed, according to the genius of the country, the name of MacWilliam, was either an imposter or a bastard. Dug. Monast., i., 400, 758; Dug. Bar., i., 81. It is apparent, then, that Donal above mentioned could not be the legitimate son of William the son of Duncan.

(*z*) Madox's Excheq., i., 20. (*a*) Lord Hailes's An., i., 131; Benedict. Ab., 514.

An event was at hand which was of still more importance to William and his kingdom. On the 6th of July, 1189, died Henry II., who employed great abilities and superior power during a long reign in oppressing Scotland. Richard, his magnanimous successor, acted with more genuine policy when he restored to William all that had been extorted by Henry. On the 5th of December, 1189, Richard made a formal restitution of the independence of Scotland with all her rights, as they had been enjoyed by Malcolm IV., and as the kingdom was bounded at the captivity of William (*n*). For this noble boon the Scottish king agreed to pay ten thousand merks sterling. Neither William nor his people could discharge so large a sum at one payment, and there is reason to believe that he called a convention of his bishops and barons at Musselburgh, who gave him an aid for so valuable a consideration, however embarrasing it was to a people (*o*) who could only obtain scanty opulence from the sale of wool, hides, and skins. It is always pleasant to remark reciprocations of generosity. When William heard of the captivity of the gallant Richard, he sent him two thousand merks towards his redemption (*d*).

Scotland was now independent, and it was to be lamented that William accepted what Richard agreed to convey, the earldom of Huntingdon and other English territories, because the performance of the feudal ceremonies by the Scottish kings had, in the eyes of the vulgar, the appearance of acknowledgements for the independence of the kingdom. On the 22nd November, 1200, William did homage to John, the successor of Richard, with "a saving of his "own rights" (*p*). After the performance of the accustomed ceremony, which was not in that age regarded as disgraceful, he demanded the restitution of the three northern counties of England as his ancient inheritance. An answer was promised, which there was no purpose to give, and a disappointment ensued that embittered enjoyment by deferring hope.

Meantime Harald the Earl of Caithness disturbed the peace of the north in 1196. William, with his usual promptitude, dispersed the insurgents. But they were not subdued. They appeared in the subsequent year near Inverness, under the command of Torphin, the son of Harald. The rebels were again overpowered by the royal army. The king now marched through Ross beyond the river Ochil, throughout the earldom of Caithness (*q*), seized Harald, and obliged him to deliver his son Torphin as a hostage. Harald was allowed

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(*n*) The instrument of renunciation is in Rym. Fœd., i., 64; see Hoveden, 662; and Bromton, 1168.

(*o*) Lord Hailes's An., i., 133.

(*d*) Chron. Melrose, 179.

(*p*) Hoveden, 811-2; Fordun, lib. viii., c. lxi.

(*q*) Fordun, lib. viii., c. 59; Torfæus's Orcades, lib. xi., c. xxxviii.

to retain the northern divisions of Caithness; but the southern part of it, which was called Sutherland, was given to Hugh Freskin, the progenitor of the Earls of Sutherland. Harald died in 1206 (*r*); but his son in the end paid the forfeit of his father's reiterated rebellions and his own turbulence, by suffering in the castle of Roxburgh a death of such cruelty as the savageness of the age could alone dictate or endure (*s*).

William had scarcely calmed the troubles of those northern districts when disputes arose on his southern borders with a more powerful adversary. The English king, in order to overawe Berwick, built a castle at Tweedmouth in 1204. William demolished it as often as this invidious building was erected. In 1209 John brought an army to Norham, and the Scottish king led his warriors to Berwick. The barons on both sides, who feared the events of war, mediated a peace between the hostile monarchs. William became bound to pay the king of England fifteen thousand marks for procuring his friendship and for his performance of certain stipulations. William also gave hostages for the payment of that vast sum by periodical instalments, and he delivered his two daughters, Margaret and Isabella, to John, in order that he might provide them in honourable marriages (*t*). This treaty, like other unequal agreements, was not very accurately performed on either side. The aged William, who was censured for this pacification, called a great council at Stirling in 1211. He asked assistance to enable him to fulfil the stipulations of the late treaty. The barons who owed him an aid for the marriage of his daughters gave him ten thousand marks, and the boroughs contributed six thousand, if Fordun may be credited for this improbability (*u*).

In the meantime a new insurrection broke out during the year 1211 in Ross, among a people who, from their habits of life, set little value on the blessings of peace. Guthred, the pretended son of MacWilliam, who had fallen on the same field in 1187, landed from Ireland and spread devastation, according to the savage custom of the age. He for some time baffled the king's troops amidst the fastnesses of a mountainous region. But the king, even at his advanced age, marched against the insurgents, and Guthred, being betrayed by his followers, was executed in 1212 by William Cumyn, the justiciary of Scotland (*x*).

(*r*) Chron. Melrose, 182.

(*s*) Chron. Melrose, 180; Fordun, lib. viii., c. 59; Torfæus's Orcades, 144-7.

(*t*) Ford., lib. viii., c. 71-2; Chron. Melrose, 183; Rym. Fœd., i., 155.

(*u*) Fordun, lib. viii., c. 73; Lord Hailes's An., i., 139.

(*x*) Chron. Melrose, 185; Fordun, lib. viii., c. 76.

William, worn out with age and infirmities, died at Stirling on the 4th of December, 1214, in the seventy-second year of his age and the forty-ninth of his reign (*y*). By Ermengarde, the daughter of Richard, the Viscount of Beaumont, whom he married in 1186, William left a son and three daughters. William appears to have been a prince of not much penetration or judgment. He might have foreseen that the territories in England which he claimed as his inheritance would never be delivered to him, and would not have promoted the interest of his people if he had acquired them. His misconduct at Alnwick was the cause of his own disgrace and his people's misfortunes. He showed dexterity, however, in regaining the independence of his kingdom by watching the necessities of Richard. In quelling domestic insurrections he evinced the activity of his nature, and by administering justice with steadiness and severity he in some measure tamed the fierceness of undisciplined tribes. He followed successfully the steps of his predecessors in maintaining the independence of the Church of Scotland, which was frequently undermined by intrigue and often assaulted by power.

ALEXANDER II.,

The son of William, was crowned at Scone in the seventeenth year of his age, on the 5th of December, 1214 (*z*). His repose was soon disturbed by an inroad which Donald M'William made from Ireland into Moray, and which was easily repulsed by the warlike tribes of that region, who were led by M'Intagart, the Earl of Ross. The head of the invader was triumphantly brought to the youthful king, according to the savage practice of a rude age (*a*).

Freed from this embarrassment, Alexander was induced by the interested promises of the English barons to engage in hostilities with John, the object of their hate. In expectation of regaining the northern shires, the Scottish king besieged the castle of Norham without success. In 1216 John made a signal retaliation. He wasted Yorkshire and Northumberland, and passing the

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(*y*) Chron. Melrose, 186; Fordun, lib. viii., c. 79.

(*z*) Chron. Melrose, 186; Fordun, lib. ix., c. i. Yet in 1233 the archbishop of York entered an *appeal* in the nature of a protest, which was adopted by Henry III., against the coronation of Alexander, as prejudicial to the dignity of the king of England and derogatory from the rights of the archbishop. The writ is in Prynne, iii., 85; and in Rym. Fœd., i., 328.

(*a*) Chron. Melrose, 180.

Tweed with his army of mercenaries he penetrated into Scotland and burnt Dunbar and Haddington. His devastations, by cutting off his own subsistence, obliged his army to retire; and during their retreat, while enraged by disappointment, they burnt the priory of Coldingham and the town of Berwick, John himself carrying the foremost torch. Alexander imitated this rage of devastation. He entered England by the western marches with fire and sword. The Galloway-men, who were now called *Scots*, as they were in the former age denominated Picts, fired the monastery of Holmcultram in Cumberland (*b*). In returning with their plunder, a thousand of *the wild Scots of Galloway* are said to have been swallowed up by the river Eden (*c*). Alexander dismissed from his service those ferocious plunderers, who enfeebled his army by their turbulence more than they strengthened it by their valour. While the Scottish king was marching forward to join Louis, the French prince, and the discontented barons, he heard of the demise of John, in consequence of poison, on the 16th of October, 1216 (*d*).

The shameful defeat of Louis soon after induced him to make a dishonourable peace without including his Scottish ally. Deserted thus, Alexander made his peace with Henry III. in 1217. He relinquished the town of Carlisle, and he did homage to the English monarch for the earldom of Huntingdon, and for those territories which his predecessors had held of the English crown (*e*).

The pacification with England, which was confirmed by mutual marriages, had scarcely taken place when an insurrection broke out amidst the wilds of Argyle. The perseverance of Alexander, notwithstanding the obstructions of nature, enabled him to pass the defiles of this rugged country. The men of Argyle submitted to his power, their chiefs fled from his resentment, and he distributed their lands among his officers with their followers, who enforced obedience by their settlement, and taught civility by their example (*f*).

A tumult arose in Caithness during the year 1222 on account of the exaction of tithes. Adam the Bishop was burnt in his palace of Halkirk. The Earl of Caithness was supposed to connive at this barbarity, if he did not incite the insurrection. Alexander, while journeying to England, heard of events which were disgraceful to his reign, however suitable to the savageness of the people

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(*b*) Chron. Melrose, 190.

(*c*) Id. The *Eden* of the chronicle was probably the Solway, which was more likely, from its shifting sands, to have swallowed up the Gallowaymen in returning to their own country.

(*d*) Chron. Melrose, 190-1; M. Paris, 199.

(*e*) Rym. Fœd., i., 224; Chron. Melrose, 195; Fordun, lib. ix., c. xxxi.

(*f*) Fordun, lib. ix., c. xxxiv.

and the age. He hastened into the north, and he inflicted on the multitude punishments of such severity as outraged justice, and he deprived the Earl of his estate, which he allowed him afterwards to redeem (*d*). The Earl was himself murdered by his own servants in his own house during the year 1231 (*e*). His family and the State had now a sad example of the danger which arises from inciting tumult and perverting morals amidst a rude people in an irascible age. It was during those events, probably, that the earldom of Sutherland was formed for the family of Freskin, in order to overawe the turbulence of the Earls of Caithness.

Meantime a new insurrection was raised in Moray, in 1228, by Gillespoc M'Scolane. Devastation accompanied his inroad. He burned some wooden castles, he fired Inverness, and he spoiled the crown lands in that vicinity. The king hastened against him with a very slender power, but without success (*f*). In the subsequent year, William Cumyn, the Earl of Buchan and justiciary of Scotland, who was supported by his numerous vassals, dispersed the insurgents, and executed justice on Gillespoc and his two sons (*g*).

Upon a more obvious principle the standard of revolt was raised in Galloway. Alan, the son of Roland, and great-grandson of Fergus, died in 1234, leaving three daughters, though by different marriages, his heiresses, and a bastard son. The Galloway-men, who could not see without indignation their country parcelled out to several lords, petitioned the king to assume the lordship: but Alexander sacrificed his ambition on the altar of justice. They next requested that Thomas, the bastard son of Alan, who had married a daughter of the king of Man, might be appointed their lord, but Alexander again preferred his own rectitude to their gratification. They rose in support of their principles. The standard of revolt was now carried through Galloway by the bastard and Gilrodh, an Irish chief. They even attacked Scotland with fire and sword. Alexander led an army against the insurgents. He found them in a strong country, and he obtained a victory, but it was with great efforts of perseverance and bravery. The insurgents now submitted to his mercy, which his equity did not withhold from mistaken rather than seditious subjects, and

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(*d*) Fordun, lib. ix., c. xxxvii.; Chron. Melrose, 199; Torfæus's Orcades, lib. i., c. xl.

(*e*) Chron. Melrose, 201. His name was John, but of what family is uncertain.

(*f*) Those circumstances gave rise probably to the stat. Alexander II., ch. 15, which inflicted penalties on those "quha passes nocht to the king's hoist;" and see ch. xvii. "of the Dome agains "Gylascope."

(*g*) Fordun, lib. ix., c. xlvii. It was on that occasion, probably, that the great district of Badenach was given by Alexander to Walter Cumyn, the son of the Earl of Buchan.

he restored the lordship of Galloway to the heirs parceners of Alan. The bastard and Gilrodh returned with auxiliaries from Ireland in the subsequent year; but finding little support from the Galloway-men, they surrendered at discretion, and received their pardons from a merciful king. The followers of Gilrodh, trying to escape to Ireland from the Clyde, were put to death by the citizens of Glasgow (*h*). In this insurrection of the men of Galloway we may see a principle of Anglo-Norman law enforced by the sword against the habits of the people; and in dividing the Gaelic country among the Anglo-Norman husbands of the co-parceners, we may perceive how the lands were settled by new people, who improved them by their labour, and spread civilization by their manners (*i*).

Owing to whatever policy of ambition or weakness, Henry III. called in question, during the year 1233, the validity of the coronation of Alexander, and even attempted, by intrigues at Rome, to deprive the Scottish king of the independence of his crown (*k*). By an interview between the two Kings at Newcastle, they tried in vain to settle their misunderstandings; they adjusted, however, their mutual pretensions at York in September, 1237. In compensation for the claims of Alexander, Henry agreed to settle lands upon him in Northumberland and in Cumberland, of the yearly value of two hundred pounds; and for this unequal equivalent Alexander swore fealty to Henry, according to the ancient practice (*l*). The manners of the age, or the necessities of the occasion, could alone justify such impolitic treaties.

But unequal agreements seldom last long. Jealousies arose between the neighbouring nations in 1244. A rumour was brought to Henry that Alexander had said he owed no homage to England for any part of his territories. Henry suspected that Alexander intrigued against him in France. Such were

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(*h*) Chron. Melrose, 201; Fordun, lib. ix., c. xlviii.; Wyntoun, book vii., c. ix.; M. Paris, 294.

(*i*) Helen, by the first wife of Alan, married Roger de Quinci, the Earl of Winchester, who became constable of Scotland in her right, as representative of the great family of the Morevilles. Christian, the eldest daughter of Alan by Margaret, the daughter of David Earl of Huntingdon, married William de Fortibus, the son of the Earl of Albemarle, but she died without issue. Dervorgille, the youngest daughter, married John Baliol of Bernard Castle, to whose issue, as the proper representatives of David Earl of Huntingdon, she conveyed a claim to the crown. The Chron. of Melrose, 201, and Fordun, lib. ix., c. xlviii., state that Dervorgille was older than Christian, and in this error they have been followed by Lord Hailes, An. i., 151; but the genealogical claim of Baliol, which he gave in to Edward I., states formally that Christian was the eldest sister, who died without issue, and thereby Dervorgille, the youngest sister, became the representative of David Earl of Huntingdon. See Baliol's claim in Rym. Fœd., ii., 579.

(*k*) Rym. Fœd., i., 328-334-5.

(*l*) Rym. Fœd., i., 374, 400. He swore fealty, not for his kingdom, but for the lands which he held in England, according to the practice of his ancestors.

the motives which occasioned vast preparations for war. Henry assembled a great army at Newcastle, while he incited Irish adventurers to invade Scotland. Alexander marched to the frontiers with an army of a hundred thousand men, if we may credit the calculations of that age, who were unanimous and brave, and who were still more powerful from their resolution that the clergy had inspired to die in the just defence of their religion and country (*m*). A smaller army, animated by such motives, would have been extremely formidable to an abler leader than Henry. This sentiment soon spread among the English Barons; and they meditated a reconcilement between the hostile kings at Newcastle in August, 1244, which, as it was made on equal terms, proved of lasting benefit to the contiguous nations (*n*). The character of Alexander, who was admired even by the English people as "a devout, upright, and courteous "prince," procured him greater attentions from Henry, who had lately felt his influence, and had also seen his power (*o*).

Meanwhile the wild Scots of Galloway, who had been compelled to receive strange lords and new laws, were not reconciled to either by the harshness of Roger de Quinci. A Gaelic people could no longer bear with any patience the feudal services; and in 1247 they besieged their lord in his castle, the seat of their oppressions, and the object of their hate. De Quinci, armed at all points, sallied out with his adherents, cut his way through the unsuspicious besiegers, and made his complaint to the Scottish king. Alexander, with his usual attention to justice, chastised the insurgents and reinstated the Earl in his rights, but not in the good opinion of the Galloway-men. Roger de Quinci died on the 25th of April, 1264, leaving by Helen, one of the co-heirs of Alan, three daughters, the co-parceners of his vast estates (*p*).

The refractoriness of Angus, the Lord of Argyle, next attracted the policy of Alexander. This chief, who had usually paid his homage to the king of Norway for some of the Hebride Isles, refused his homage to the Scottish sovereign. Alexander marched an army against him with design to enforce submission (*q*); but he died in Kerrera, an islet near the coast of Argyle, on the

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(*m*) M. Paris, 432-36; Brady's His., 591-3.

(*n*) Rym. Fœd., i., 428-9. In fact, the treaty of York was renewed, and Alexander stipulated to live in amity with England, and not to aid her enemies unless the English king should do him wrong. This treaty was confirmed by the Pope. Prynne's Coll., ii., 620-1.

(*o*) Id., M. Paris, 432-36.

(*p*) M. Paris, 496; Dugd. Bar., i., 688. (1.) Margaret married William de Ferrers, the Earl of Derby; (2.) Elizabeth married Alexander Cumyn, the Earl of Buchan; Elena married Alan la Zouche, an English baron.

(*q*) M. Paris, 515-6; Chron. Melrose, 219.

8th of July, 1249, in the fifty-first year of his age, and the thirty-fifth of his reign. He was buried in the Abbey of Melrose, in conformity to his own desire (*r*). By his first wife Joan, the daughter of John the king of England, whom he married in 1221, he left no issue; by his second wife Mary, the daughter of Ingelram de Couci, whom he married in 1239, he left a son, who was born at Roxburgh on the 4th of September, 1241 (*s*). Alexander II. was undoubtedly one of the best of the Scottish kings; he was properly characterized by Fordun as a king pious, just, brave; as the shield of the Church, the safeguard of the people, and the friend of the miserable.

Alexander III.

Succeeded his father in the eighth year of his age. He was crowned on the 13th of July, 1249, notwithstanding the scruples of superstition and the prejudice of chivalry. The day was said to be unlucky, and it was added that the prince had not yet been knighted; but Walter Cumyn, the Earl of Menteith, who remembered the late protest of the Archbishop of York, and knew that the King of England was intriguing at Rome to obstruct the coronation without his consent, insisted that the Bishop of St. Andrews should knight and crown the heir of their lamented king. David de Berneham, the Bishop of St. Andrews, recollecting the example of Anselm, the Archbishop of Canterbury, who had knighted William Rufus, knighted also and crowned prince Alexander. The bold baron of Menteith deserves lasting praise for having thus exploded a scruple which might have involved an irascible nation in civil war. The coronation oath was explained to the youthful king in Latin and in French. After he had been placed on the *fatal stone*, a Gaelic Seanachie approached him in the simple mode of ancient times, and in the absence of heralds, repeating his genealogy, the Seanachie pronounced his benison in his country's language, Benach de Re Albanich Alexander, Mac-Alexander, Mac-William, Mac-David, Mac-Malcolm (*t*).

Alexander celebrated his nuptials with Margaret, the daughter of Henry, in 1251. He on that occasion did homage to the English king for his English

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(*r*) Fordun, lib. ix., c. lxiii.

(*s*) Lord Hailes's An. i., App., No. ix. Alexander II. granted to the monks of Newbotle the valley of Lethan, &c. for the souls of his ancestors, David, Malcolm, and William, as well as for the soul of Earl Henry, and for his own safety and that of Mary, his queen, whose body was left to be buried at Newbotle. Chart. Newbotle, No. 129. Mary had brought him his heir, Alexander III. in 1241; and she died abroad in 1284. Fordun.

(*t*) Chron. Melrose, 219; Rym. Fœd., i. 463. Fordun, l. x., c. 1, 2. Fordun says that at the lands. Yet did the interestedness of Henry demand of his infant son homage for the kingdom of Scotland; but with a fortitude and prudence which would have done honour to an experienced politician, the King of Scots said, that he had come to marry the Princess of England, but not to treat of affairs of State, and that he could not take a step so important without the approbation of his great council (*u*).

From that epoch ensued, during the king's minority, the intrigues of interest and the perturbations of ambition in a continual series. In 1255 the ruling chiefs were removed by the influence of Henry, and a new faction was elevated to the misrule of an unhappy kingdom. The *Cumyns* were the family of the greatest possessions and influence during that minority. Animated by them, the discontented nobles burst out into insurrection, and seized the persons of the king and queen in order that they might rule in their names. This faction, consisting of the most powerful men of Scotland, entered into a league with the Welsh, who were then in arms against Henry, which had for its end that neither of the parties should make peace with the King of England without mutual consent (*x*). Henry found it necessary to accommodate himself to the state of parties and of power in Scotland; and a regency was formed in 1258, which, comprehending the chiefs of the several factions, produced an immediate calm in a troubled state (*y*). The minority of Alexander III. seems to have been the epoch when faction first came out upon the stage in Scotland for the obvious purposes of sharing power and dividing profit.

Alexander and his queen visited Henry, her father, at London in 1260. The safe conduct which was given them on that occasion bore "that neither "the king nor his attendants should be required to treat of state affairs "during this visit" (*b*). Henry made oath that he would neither detain the Queen of Scots nor her child, if she should be delivered in England. It was formally agreed that the Scottish queen should lie in at her father's court. What manners! what morals! Henry again made oath that he would restore the queen and her child. He engaged, in case of the demise of Alexander, to deliver the infant prince to the regency of Scotland. A daughter was soon

coronation of the infant, Alexander III., his duty was explained to him by the Bishop of St. Andrews in Latin, and then expounded in French, l. x., c. 1. Lord Hailes erroneously enlarges, from the above passage, that *the coronation oath* was put to the king. Annals, i. 162. His lordship ought to have known that there was no *coronation oath* in that age; and he might have found that the above passage is not to be seen in the genuine Fordun of Hearne.

(*u*) Rym. Fœd., i. 467; M. Paris, 554-5.

(*x*) Rym. Fœd., i. 653.

(*y*) Rym. Fœd., i. 670.

(*b*) Ib., 713.

after born to the Scottish king, and named Margaret (*c*). The whole conduct of Henry with regard to Scotland had been so basely captious, that the Scottish statesmen could not demand too many securities against his interested practices.

The King of England, however, endeavoured, in 1262, to save Scotland from invasion. Hearing that Haco, the King of Norway, was preparing for war, Henry interposed his good offices to prevent a rupture between the two northern kingdoms. Haco gave assurances which he knew were unreal. In the subsequent year the King of Norway came into the Clyde with a powerful armament. He landed at Largs, in Ayrshire; but he was attacked by the Scottish people, who gave him a total defeat, on the 2nd of October, 1263. In making his retreat from the hostile Clyde his fleet was dispersed by a storm. Haco arrived in Orkney only to deplore his misfortunes and to die (*d*). Magnus, the King of Man, now did homage to Alexander (*e*). The decisive victory of Largs brought to a conclusion a very tedious negotiation for the sale of the Hebride Isles. Magnus, the King of Norway, agreed, in 1266, to relinquish to Alexander those islands, including Man, with all his Hebridean rights, in consideration of four thousand marks, and an yearly quit-rent of one hundred marks for ever. The laws of Scotland were in future to prevail within the ceded isles; but the Scandinavian inhabitants of those regions were allowed freely to retire with their effects. Orkney and Shetland remained to Norway (*f*). This, then, was one of the most fortunate acquisitions which Scotland had ever obtained, as it tended to exclude foreign invasions, and to prevent domestic troubles.

In the meantime, a civil war having broken out in England, Alexander, in return for the late interposition of Henry, sent him a numerous body of Scottish warriors, who were commanded by John Cumyn, John Baliol, and Robert

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(*c*) Rym. Fœd., i., 714-15; Chron. Melrose, 223.

(*d*) Rym. Fœd., i., 753; Ib., 772; Torfæus N. Hist., vol. iv., ch. 47; Chron. Melrose, 225; Fordun, l. x., c. 16; who intimates that some of the Scottish barons had invited Haco to invade their country. See the *Norwegian Account of Haco's Expedition*, in Johnstone's ed. 1782: "The "Scottish army is herein said to have consisted of near fifteen hundred knights. All their horses "had breast-plates; and there were many Spanish horses in complete armour. The Scottish king "had besides a numerous army of foot soldiers, who were well accoutred. They generally had "bows and spears."

(*e*) Ford., l. x., c. 18.

(*f*) Torfæus N. Hist., iv., 343; Ford., l. x., c. 19; Calendar of ancient charters, 328. There is a copy of that treaty in the curious volume of MSS. which was lately transmitted by the King's order from the Paper Office to the Register House at Edinburgh; and see Fordun, p. 1349. This treaty was confirmed by an agreement between Robert I. and Haco V., King of Norway, in 1312. Robertson's Index, p. 101.

Bruce, three illustrious barons of the greatest possessions in Scotland. They shared in the defeat and disgrace of the battle of Lewis, on the 14th of May, 1264. Cumyn and Bruce, with other Scottish chiefs who were there made prisoners, regained their liberty in the subsequent year, when the civil war was closed on the decisive field of Evesham. The captiousness of the one party, and the jealousy of the other, introduced a stipulation that those reinforcements should be received rather as *auxiliaries* than as *vassals* (*g*).

From this period Alexander employed several years of his manhood in maintaining the independence of the Scottish Church against the pretensions of the Pope, and in restraining the encroachments of the Scottish clergy: his firmness and his prudence gave him final success in both those difficult operations. At Michaelmas, 1278, Alexander was called to perform a duty of equal delicacy. At the coronation of Edward I. of England, the Scottish king swore fealty to him in general terms. Robert Bruce, the Earl of Carrick, by order of Alexander, and with the consent of Edward, performed the ceremony of homage, "for the services due for the lands which I hold of the King of "England" (*h*). The captiousness of the English sovereigns during those feudal times was so gross as even to be obvious to the eyes of the infants who governed Scotland. Her rulers seem, however, to have been blinded by the manners of the age, which did not allow them to perceive in such ceremonies their own degradation, and in such insidiousness their country's disadvantage.

A train of events now ensued which involved Scotland in the miseries of civil war, and which led on to the humiliation of dependence. Margaret, who was born to Alexander in 1260, was married in 1282 to Eric, the King of Norway, in the fourteenth year of his age. She died in 1283, leaving Margaret, an only child, who was called, in the familiar language of that age, *the maiden of Norway*. In 1282 Alexander, the Prince of Scotland, married Margaret, the daughter of Guy, the Earl of Flanders, and he died on the 28th of January, 1283-4. The Scottish King, who was wounded by this stroke both in his family and his kingdom, immediately assembled his great council at Scone, in order to settle the succession to the crown. The nobles bound themselves by the most solemn ties to acknowledge as their sovereign Margaret, the *maiden of Norway*, "failing any children whom Alexander "might have, and failing the issue of the late Prince" (*i*). The nobles acknowledged that *the heirs* of Alexander ought *by law* to succeed to the

(*g*) Rym. Fœd., i., 772. (*h*) Rym. Fœd., ii., 126.

(*i*) Ford., l. x., c. 37 ; Rym. Fœd., ii., 266.

crown, but they appear to have disregarded on that appropriate emergency the *right of representation,* if it existed among those kingly heirs (*i*). They enumerated with precision, however, the territories which were thus to be governed by the legal successors of their excellent sovereign.

In order to add strength to those prudent measures, the Scottish king married Joletta, the daughter of the Count de Dreux, in 1285 (*k*). The public festivities had scarcely ceased on an occasion which promised stability to the state when the nation was involved in general mourning for the king's decease. Riding, on the 16th of March, 1285-6, in the dusk of a cloudy evening between Burntisland and Kinghorn, he was thrown from his horse and killed by the fall (*l*). Thus died Alexander III. in the forty-fifth year of his age and the thirty-seventh of his reign (*m*). Let no one question the salvation of this king because of his violent death, saith Fordun, "he who has "lived well cannot die ill." He was long lamented for the vigour and equity of his government. He enforced the steady administration of justice by his presence in the *juridical aires.* He overawed and protected the clergy by his circumspection. By his prudence he maintained the independence of his realm. By his policy he acquired the Hebride isles which at once enlarged and secured his kingdom; and he showed a virtuous example to a rude age, which his experience forbade him to reform by his legislation, as a project too difficult in theory and more dangerous in execution.

MARGARET,

The maiden of Norway, succeeded peaceably to her grandfather's throne and misfortunes, as she had been recently acknowledged the heir to his rights (*n*). The infancy and the absence of Margaret concurred to make a provisional government necessary. On the 11th of April, 1286, a regency of six, consisting of the principal prelates and barons, was settled by the great council at Scone. The Bishop of St. Andrews, the Earl of Fife, and the Earl of Buchan, were appointed to govern the country on the north of the Friths. The Bishop of Glasgow, John Cumyn, and James, the Steward of Scotland, had the countries on the south of the Friths committed to their charge. Among the regents neither Bruce nor Baliol appears. In a factious age unanimity

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(*i*) Id. (*k*) Fordun, l. x., c. 40.

(*l*) The place where Alexander was killed is still called *The King's Woodend,* on a terrace over a precipice. This place is still pointed out by the ferrymen to inquisitive passengers from Leith to Kinghorn. (*m*) Id.; Lord Hailes's An., i. 183.

(*n*) Rym. Fœd., ii. 266.

could not long exist among such men during such peculiar circumstances, when the voice of the law was unheard amid the clamours of ambition (*p*).

The number of the regents was soon reduced to four by the deaths of the Earls of Fife and Buchan. Parties began to be formed among the nobles. The Bruces and Stewarts entered into a league of mutual adherence with Gilbert, the Earl of Gloucester, and Richard, the Earl of Ulster, with a view to the competition for the crown which now was obviously in contemplation (*s*).

To all those events the interested eyes of Edward I., the sovereign of England, and of Eric, the King of Norway, were not inattentive. As early, indeed, as June, 1286, Edward granted to Eric, who had been insidiously attacked by Denmark, assistance both of troops and money (*t*). The two kings drew closer to each other as the government of Scotland became more embroiled. In April, 1289, Eric sent ambassadors to Edward in order to treat of the rights of his daughter, Margaret, and of the affairs of her kingdom (*u*). The guardians, being informed by Edward of the purpose of Eric, sent the Bishops of St. Andrews and Glasgow, with Robert de Brus, the father, and John Cumyn, to treat with the Norwegian ambassadors in the presence of the English monarch; saving, nevertheless, in all things the liberty and honour of Scotland (*x*). Edward informed them in return that he would send proper persons to inspect and report the real state of a kingdom whose quiet and prosperity he greatly desired (*y*). This politic king had already formed the salutary project of marrying the heir of his dominions to the Queen of Scots (*z*). He convened a congress at Salisbury, by joining his own agents to those of Scotland and of Norway. The deputies soon formed a convention, which had

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(*p*) Fordun, l. xi., c. 3; Lord Hailes's An., i. 185.

(*r*) Duncan, the Earl of Fife, was assassinated in the twenty-sixth year of his age by Sir Patrick Abernethy, on the 25th September, 1288. Lord Hailes's An., i. 185; Sibbald's Fife, 96. Alexander Cumyn, the Earl of Buchan, died in 1289.

(*s*) This association, which is the earliest of those family compacts that became so frequent and pernicious in Scotland, was entered into at Turnberry-castle, the baronial residence of Bruce, the Earl of Carrick, on the 20th of September, 1286. Dug. Bar., i. 216, which quotes the original; Symson's Hist. of the Stewarts, 47-78; Lord Hailes's An., i. 186, mistakingly supposes that the Stewart of Scotland was at the head of this association; though he had then no pretensions to the crown while Bruce had a claim.

(*t*) Rym. Fœd., ii. 323-4, 327-39.

(*u*) Ib., 417; Torfæus Nor. Hist., part. iv., ch. 5.

(*x*) Rym. Fœd., ii. 431. The regents dated their commission from the monastery of Melrose, on the 3rd of October 1289.

(*y*) Rym. Fœd., ii. 445.

(*z*) He obtained a dispensation from the Pope for such a marriage, dated the 16th of the kalends of December 1289. Ib., ii. 450.

been previously settled. It was now agreed that Margaret should be sent either to England or to Scotland; that she should be delivered free to her people if she should arrive in England, provided good order should be restored in Scotland, and her subjects should not give her in marriage without the participation of Edward and the assent of Eric. The Scots engaged to establish good order, previous to the arrival of Margaret; and they promised to remove any of the guardians whom the King of Norway might deem unfit for their important stations (*a*).

The Scottish people seem not to have been well informed with respect to the intrigues which were carrying on, either for their happiness or misery. The most considerable persons in Scotland appear to have been privately canvassed for the projected marriage; and in March, 1290, a great council, which was very numerously attended, met at Brigham on the borders, to consider of the state of their country. The effects of the recent intrigues now appeared. The whole community of Scotland, including the next heirs to the crown, failing Margaret, wrote in the most obliging terms to Edward, desiring to know his purpose, of which they had only heard by rumour, and declaring their assent to a measure that must necessarily promote the happiness of the two nations (*b*). They wrote to Eric at the same time in more urgent terms, to send his daughter to the King of England in order to accomplish a marriage which would be so honourable to him and so advantageous to them (*c*). Eric did not enter, however, into their views with the same ardour. Either from affection for his daughter, or from a regard for his people, he hesitated to comply with the warm desires of the British nation. Other measures were now adopted for insuring his compliance. In April, 1290, Edward sent the Bishop of Durham to negotiate this interesting treaty. He soon after informed Eric of the Pope's dispensation, and of the requests of the Scottish people (*d*). The English negotiator was empowered to employ more persuasive arguments with the most influential persons at the court of Norway (*e*). Edward adopted additional measures for obtaining the speedy arrival of Margaret, and accomplishing the object which was so much desired by the British states (*f*).

In the midst of those intrigues, which facilitated subsequent measures, the treaty of marriage between the Prince of England and the heiress of Scotland was concluded at Brigham on the 18th of July, 1290. The stipulations of

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(*a*) See the convention which was dated the 6th of November, 1289, in Rym. Fœd., ii., 446.

(*b*) Rym. Fœd., ii., 471. (*c*) Ib., 473. (*d*) Ib., 474.

(*e*) It appears from the records in Prynne, iii., 399, that the Bishop of Durham was authorized and enabled to settle pensions on certain persons in Norway till Margaret should accomplish her fifteenth year. (*f*) Rym. Fœd., ii., 479.

this matrimonial convention do honour to the wisdom of the Scottish statesmen. In negotiating with a prince who had shown, by every action of his life, his address and his ambition, their circumspection stipulated what their sagacity foresaw might be necessary for preserving the independence of the state and guarding public liberty and private rights (*g*). Scotland was to remain independent; the government was to be conducted within the kingdom according to the established laws; and it was settled that the right to the crown should revert to the legal heir, in case Margaret should die without issue. Edward made haste to ratify a convention which seemed to accomplish what he had resolved to obtain by whatever measures (*h*).

Yet his impatience appears, through all his projects for annexing Scotland to his crown, to have blinded his policy. The treaty was scarcely ratified when he appointed the Bishop of Durham, his lieutenant, for governing Scotland in the names of the princess and the prince, in concert, indeed, with the guardians, though the marriage had not yet taken place; though the treaty had provided a different government (*i*). This departure both from policy and the convention was followed by a demand of all the strong places in order to guard against those dangers which rumour had suggested, and which existed only in his own impatience (*k*). The suspicions of the guardians were now awakened, and they refused to surrender the strengths of their country to the demands of artifice. They offered, however, such conciliatory terms as seem to have given satisfaction to Edward, who perhaps intended merely to try how much the patience of an irascible people could bear (*l*).

But the demands of the one and the proposals of the other were all rendered vain by an event which foresight could not prevent, and which involved the nation in sorrow and the people in misery. Margaret, the anxious hope of three kingdoms, sickened on her voyage from Norway, and died in Orkney during September, 1290 (*m*).

(*g*) See the treaty in Rym. Fœd., ii., 482. (*h*) Rym. Fœd., ii., 482.

(*i*) Rym. Fœd., ii., 487. (*k*) Ib., 488. (*l*) Ib., 489, 1090.

(*m*) Rym. Fœd., ii., 1090; Math. Westm., 381; Icelandic Annals in Langebek's Script., ii., 196. Sir Michael Wemys and Sir Michael Scot, two illustrious knights of Fife, were sent by the guardians to conduct the Princess to Scotland. They brought the unwelcome tidings of her death; but their report of an event so important does not remain. Fordun, lib. xi., cap. i. I have caused every inquiry to be made in Orkney for some monumental stone or some traditional memorial of the time, place, and circumstances of the demise of Margaret, but though I have been assisted by my respectable relation, Mr. James Riddoch of Kirkwall, I have inquired in vain. On the 31st of March, 1801, he wrote to me: "Agreeably to your desire, "I have made all the inquiry in my power respecting the death and burial of Margaret of

At this epoch there were due to Eric four years' annuity of seven hundred marks, on account of his wife's portion. This debt he assigned to merchants who had lent him eight and twenty hundred marks sterling for defraying the charges of his daughter's voyage to Britain; and he asked Edward's assistance in recovering what he had thus transferred to traders (*u*). In this transaction we may see the deranged state of Scotland, and the commercial wealth of Norway. After claiming the crown of Scotland as heir to his daughter, Eric himself died in 1299, during the thirty-first year of his age and the nineteenth of his reign, which had been greatly disturbed, both by domestic faction and by foreign warfare (*o*).

"Norway, who, if she died in Orkney, must undoubtedly have been buried in the cathedral of "St. Magnus, though you may be assured there is neither monument nor inscription of any "kind to establish the fact; but in the part of the cathedral where divine worship is per-"formed there are some graves—four or five—covered with stones of white marble, without any "inscription or figure on them, and the tradition handed down respecting them is that they "are the burial places of some Danish nobles. Upon opening a pillar opposite to one of these "graves some years ago for the purpose of erecting a loft there was found a box, about two "feet and a half long, strongly made of wood, which contained a curious cap of silk and a num-"ber of ribbons, and there was an appearance that some of the vitals had been deposited in it, as "was customary when great people were interred. I think it highly probable, if you are sure she "died in Orkney, that this grave opposite to the pillar where the box was found was hers." He afterwards wrote me on the 4th of August, 1801, as follows:—"Agreeably to what I wrote in "my last, I have had the suspected grave opened in presence of Mr. Yule, our first clergyman, "and some others, and I shall describe to you as well as I can what we saw. This grave, from "the size of the stone which covered it, appeared to be narrower than any of the other distin-"guished graves; and upon removing the stone we observed a common stone set across nearly "two feet or twenty inches from the top, as if to shorten the grave; and upon removing part "of the earth there was also a wall built upon the side of cut freestone, of the size of bricks, "apparently to narrow the grave, with an arch of some common stones, in a very rude style, over "what was below. This arch being removed we found two skulls, one certainly of a full grown "person, in which the teeth were perfectly sound, with bones of a large size; and the other "skull, from being smaller and very thin compared with the former, we supposed to be that of a "young person, and the size of the bones confirmed this opinion; and in the bottom of the grave "there was a smooth flag stone, without the appearance of wood or anything else. One thing "we discovered which appeared curious. The graves which I call distinguished are all covered "with stones, hitherto supposed to be marble; but upon opening this one we found the covering "stone to be granite of a superior quality to the *Quern stones* for grinding malt, &c., and "brought from Norway, which I humbly think evinces that the persons interred in these graves "have been people of some note, as these stones must have been brought from Norway for the "purpose, there being none such in this country; and although all of them are so well polished "as very much to resemble white marble, yet no inscription or mark can be discovered on any "of them."

(*n*) Rym. Fœd., ii. 1090. (*o*) Torfæus, iv. 393-406; Langebeck's Scrip., ii. 197.

The regency was now at an end; the many ties which had recently connected Edward with Scotland were completely broken by the decease of Margaret (*p*); and there henceforth ensued

AN INTERREGNUM.

The late settlement of the crown extended no farther than the progeny of Alexander III., which had unhappily failed. But there were remoter heirs who had not been inattentive, meanwhile, to their several claims. The legal heirs were those respectable barons who traced up their propinquity to David, the Earl of Huntingdon, the grandson of David I. Robert Bruce, the lord of Annandale, who was the son of the second daughter of the Earl of Huntingdon, appeared at Perth on the news of Margaret's death, while the great council was deliberating on the demands of Edward. The formidable retinue of Bruce proclaimed the secret intentions which his prudence concealed. The Earls of Marr and of Athol severally assembled their numerous vassals. Every claimant, however preposterous his pretensions might be, formed a party; and the sad prospect of a civil war, with all the miseries of a doubtful succession, now lowered on a divided people.

John Baliol, the lord of Galloway, who then resided in England, was the great grandson of the Earl of Huntingdon by his eldest daughter, and who was now at the age of forty-two. The pretensions of this potent baron were promoted by the intrigue of William Fraser, the Bishop of St. Andrews. While the fate of *the Maiden of Norway* was still doubtful, this artful prelate wrote to Edward on the 7th of October, 1290, insinuating the claim of Baliol, and inciting the English monarch not, indeed, to invade Scotland, but to appear on the frontiers, for the obvious purpose of overawing a distracted nation (*q*). The ambitious eyes of Edward easily saw the true meaning of the dark suggestions of the prelate's policy. That able monarch prepared to follow advices which altogether corresponded with the resolutions that his predetermined purpose had already formed; and his resolution could only have been postponed by the lamented death of his consort, Eleanor, to whom he paid the last and merited honours in December 1290.

In the meantime the inhabitants of the Isle of Man, which belonged by cession to Scotland, placed themselves under the dominion of the King of

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(*p*) Prynne's Col., iii. 400. Even the lands which the Scottish kings had held in England escheated to Edward. Ryley's Placita, 618.

(*q*) That odious epistle is in Rym. Fœd., ii. 1090; and see Lord Hailes's commentary on it in his Ann., i. 196-7.

England, owing to the intrigues of a designing monarch (*r*). Without authority or invitation, that interested prince determined to interfere in the settlement of the affairs of Scotland, with design to acquire its sovereignty (*s*). When the marriage of their queen was in contemplation, the estates cautiously stipulated what Edward admitted, that they should never be required to meet their sovereign without the realm; but Edward, who had now no other authority over the Scottish people than the pretences of ambition, required the clergy and nobility of Scotland to meet him at Norham, on the English border of the determinating Tweed. To this place he had summoned all his military vassals of the northern shires, with the obvious design to support pretensions which could not be maintained by argument (*t*).

In fatal obedience to this summons, the clergy and nobility met Edward within the English borders. The Scottish statesmen, who had so recently treated with the King of England on a footing of equality, could not easily suspect that he would at once take higher ground, and from it dictate in the tone of superiority. They were, however, sadly disappointed. Edward, who acted upon a systematic plan, came to Norham with his justiciary, who brought such proofs as could be collected by the monks of England for supporting his bold assumption of Lord Paramount of Scotland (*u*).

(*r*) Rym. Fœd., ii. 492.

(*s*) Whether Edward I. was invited by the Scottish nation to settle the succession to the crown is left somewhat doubtful by Lord Hailes, An., i. 199; yet it appears to me that the King of England had no other invitation than the insidious suggestions of Fraser, the Bishop of St. Andrews:—(1.) Neither the previous diligence of Prynne, who ransacked the Tower of London for such documents, nor the subsequent industry of Rymer, has discovered any such paper, though the deceitful epistle of that intriguing prelate was readily found. (2.) Edward himself does not pretend, when he opened the Assembly at Norham, to have had any such invitation. Rym. Fœd., ii. 543. (3.) There was a meeting, indeed, of the regents and others at Perth, in October, 1290, when they heard of the lamented death of their sovereign; but it may be inferred from the silence of Prynne and Rymer that they sent none of their proceedings to Edward. (4.) Hemingford, and the historians who followed him, were misled by the rumours which were spread by the King of England in consequence of the Bishop's letter before mentioned. (5.) It is therefore certain that Edward had not any public invitation to interfere in the settlement of Scotland, whatever private and unauthorised suggestions he may have had.

(*t*) Rym Fœd., ii. 525, 543; Prynne, iii. 450; Lord Hailes's An., i. 198-200. Lord Hailes shows, however, that the army of Edward had not arrived at Norham on the 10th of May, yet he had force sufficient within his command.

(*u*) Prynne, iii. 407. Prynne was so blinded by his prejudice that he assumed fictions for facts, and sophistry for argument. The monasteries of England, the great depositories of public documents, were ransacked for historical proofs of the feudal superiority of England. Walsingham, 55. I have in my own library a MS. roll of great length, which appears to have been drawn up for

After all those preparations, this great council assembled in an unlucky hour at Norham. Brabazon, the Justiciary of England, opened the business of the assembly with a premeditated speech. By order of Edward, he said: That after much deliberation on the unhappy state of Scotland, owing to the failure of direct heirs to the crown, he had undertaken a long journey in order to do justice personally to all the competitors, as *superior* and Lord Paramount of the kingdom of Scotland; that he meant not to encroach on any individual rights, but as *Lord Paramount*, to administer ample and speedy justice to every person and to every party; and in order to accomplish more effectually his avowed intentions, he required their recognition of his title as *Lord Paramount;* and he declared his willingness to make use of their advice in settling the nation, which was at present full of danger, from the disputed succession. The silence of the assembly showed their astonishment. At length a voice was heard to say: "No answer can be made while the throne is vacant." The indignation of the pretended Lord Paramount was roused. "By holy "Edward, whose crown I wear," cried the King "I will vindicate my just "rights or perish in the attempt." The Scottish statesmen desired a delay for the purpose of consulting those who were absent. He adjourned the business till the morrow. They now renewed their request; and the imperious Edward allowed them three weeks to give him a definite answer to a very perplexing question (*x*).

He seems, in the meantime, to have discovered that the assembly of the Scottish clergy and nobility in England, was an unprecedented measure,

proving the paramount dominion of England when Henry VI. was following the steps of Edward I. The historical part of this roll, which traces the connection of the two countries from the early age of *Brute*, consists of fictions, forgeries, and mis-statements. It does not notice the explicit renunciation by Richard I. of all claims over Scotland. It passes over in prudent silence the battle of Bannockburn, which established the independence of Scotland *in fact*, and the treaty of Northampton, that settled the same independence *in law*. Harding had a pension from Henry VI. for his forgeries. Anderson's Independence, Ap., No. vii.; Calender of Anc. Chart., 309; Astle on the Scot. Seals, 7-8. It is curious to remark that the parliament of Henry VIII. adopted, literally, both the *history* and *logic* of that *roll*. Act for the Subsidy, 34-5, Henry VIII., ch. 27. Rastal, 821. The argument of the roll of Edward I. and of Henry VIII. amounted to this:—The Scottish kings have often performed homage for the lands which they held in England, as the English kings had often performed homage to the kings of France for the territories that they possessed in France: therefore the Scottish kings hold Scotland as feudaries of England. Such an argument could alone be made by ambition; and could only be maintained by power. Queen Elizabeth was the first sovereign of England who, after the treaty of Northampton, had the policy to disavow any claim of sovereignty over Scotland, though the Queen of Scots had been considered as a *feudary* in order to affect her life.

(*x*) Rym. Fœd., ii. 525-28, 543-4-5; W. Heming., i. 33.

which, as he found in it some disadvantage to himself, he was careful to disavow (*y*). He appears, however, not to have perceived that it was equally unprecedented for a King of England to meet a Scottish great council within the realm of Scotland; yet, on the 2nd of June 1291, Edward did assemble such a body at Upsetlington, on the northern banks of the Tweed, for a purpose, which, to every party, was of great importance.

The Chancellor of England now undertook to manage the assembly, in the place of the Justiciary. He appears to have spoken with less dogmatism of his sovereign's superior right; but, since the Scots had not controverted his pretensions, he said that the king was resolved, as Lord Paramount, to decide the question of the succession. Alas! what answer could the Scottish statesmen make to such pretensions! They were divided by faction; they were distracted by the insidiousness of the Bishop of St. Andrews, the late regent; and they were betrayed by the interestedness of the pretenders to the crown. The ministers of Edward only changed their plan, without relinquishing their object. They had, probably, discovered from the late delay, that the Scots who attended the convention at Norham had no authority to surrender the independence of their nation; and it was deemed sufficient by Edward and his advisers, that the competitors for the royal prize should recognize the authority of him who was about to bestow it. Ten claimants came forward by the intrigues of Edward, with very different pretensions, in order to create difficulties which did not really exist. At the head of these, were Robert Bruce, the grandson of David, the Earl of Huntingdon, by his second daughter, and John Baliol, the great grandson of the same prince, by his eldest daughter. The Chancellor, addressing himself to Bruce, demanded whether he acknowledged Edward as the Lord Paramount of Scotland, and whether he were willing to receive from him in that character judgment on his claim. Bruce explicitly declared his assent. The same questions were in the same manner asked Baliol and the other competitors in succession; and the same answer was respectively given by each. A great concession was thus obtained by Edward, without any suspicion of the competitors that he had any further pretensions in reserve. But the Chancellor now protested on the king's behalf, that he was not only entitled to the right of superiority over Scotland, but also to the right of *property*. There seemed to be no end to the subtilties and cavils of ambition. It was at length apparent that Edward laid a strong claim to the royal prize, as of right his own, if the other claimants at any time should fail (*z*).

(*y*) Rym. Fœd., ii. 546.

(*z*) Rym. Fœd., ii. 544, 555-9.

After all those preliminaries, the competitors sealed a preconcerted instrument, on the third of June 1291, acknowledging the established right of Edward to adjudge their claims, and promising to submit to his award. Commissioners were now appointed, both by the claimants and the judge, to examine the pretensions of each, and to make their report to the Lord Paramount. On the 4th of June all the competitors agreed that seisin of the kingdom should be delivered to Edward, because judgment ought not to be given without execution, nor could execution be awarded without possession. On the 11th of June, the regents made a solemn but scandalous surrender of the kingdom to a stranger; and he immediately restored the custody of this degraded nation to the late regents, Fraser, the Bishop of St. Andrews, Wishart, the Bishop of Glasgow, John Cumyn of Badenach, and James the Steward (*a*). Amid those scenes of slavishness, it is pleasing to see upon the stage one character of spirit. Gilbert de Umfraville, the Earl of Angus, refused to deliver up the charge of the castle of Dundee and Forfar, which had been entrusted to him by the Scottish nation, without a joint indemnity from Edward and the competitors.

They virtually acknowledged the spirited integrity of Umfraville by granting him the requisite indemnification (*b*). The regents of Scotland, many of the principal barons, and some of the ecclesiastics swore fealty to Edward as Lord Paramount; and on the 15th of June this assembly, which will ever be despised for its servility, adjourned to the 2d of August (*c*). Edward, by sending the proceedings of that great council to be recorded in the monasteries of England (*d*), seems to have been studious to perpetuate the chicanery of his claims, and the artifice of his management.

The King of England now considered the two kingdoms as completely united by those formal acknowledgments of his paramount authority. He appears to have regarded the two countries as more thoroughly incorporated than if they had been governed by the same king under distinct titles; and he directed that judgments which were given in England should be executed in Scotland; and that writs tested in Scotland should be received in the law courts of England. Thus forward was that able prince to carry into practice the novelties of his pretensions, though he thereby sacrificed his wisdom to his policy (*e*).

The universal homage of Scotland was now required and given, as if oaths could much avail, while Edward by the tenor of his measures departed from

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(*a*) Rym. Fœd., ii. 529-554.

(*b*) Rym. Fœd., ii. 531.

(*c*) Ib., 559.

(*d*) W. Hemingford, i. 36.

(*e*) Rym. Fœd., ii. 533-73.

the practice of morals (*f*). On the 3d of August the several competitors put in their claims at the meeting of the commissioners. Of the ten pretensions, none were regarded as meriting much consideration except those of Baliol and Bruce. As it was universally admitted that the crown was descendible to female heirs, any real contest could only exist between those two powerful barons. When the question was stripped of all the chicanery which artifice had thrown around it, the single consideration could alone be whether the grandson of the eldest, or the son of the second daughter, had the preferable title. On this simple state of the claims, Baliol had the best pretension, according to the practice of the age, which seems to have adopted the right of representation. The ancient usages (*g*), the recent practice (*h*), and the subsequent resolutions, both of the parliament and of the church (*i*), appear to have been most favourable to the pretensions of Bruce. Yet were both the claimants equally servile, and had both shown themselves to be altogether unworthy of an independent crown.

After so many preliminary steps, the commissioners at length came to the hearing of the claimants. Foreign jurists were, in the meantime, consulted by Edward. The Scottish statesmen again disgraced themselves by referring to the English commissioners for a declaration, what were the laws and usages of Scotland which applied to those difficult questions. On the 2nd of June, 1292, the commissioners, who were mere instruments in the hands of an able politician, declined to make any report in a matter of such high concernment, without listening to the better judgment of the *wise men* of England (*k*). That artful prince was now induced by the self-denial of the commissioners, which himself had prompted, to call a parliament at Berwick, on the 15th of October, 1292 (*l*). In the midst of those difficult discussions of Scottish jurisprudence, neither the Mac-Alpin laws, the laws of Malcolm, nor the *Regiam majestatem*, were either mentioned or alluded to. After various discussions, which, as they were all affected, merit little recollection, Edward, on the 16th of November, 1292, gave judgment in parliament "that John Baliol shall have seisin of the king-

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(*f*) Rym. Fœd., ii., 567-73.

(*g*) As they had been derived from the Brehon laws of Ireland, and were practised in Scotland from A.D. 843 to 1097: Lord Hailes, indeed, by an odd perversity, considers those ancient usages as mere usurpations. Annals, i., 217.

(*h*) When the estates of Scotland settled the succession on the offspring of Alexander III. Ib., 182-3.

(*i*) Anderson's Independence, Ap., No. 11-12.

(*k*) Rym. Fœd., ii., 580-1.

(*l*) Id.

"dom of Scotland (*m*)." Yet the sovereign judge did not forget to renew his ambitious claim *to the direct dominion of Scotland.* Edward now ordered seisin of the Scottish kingdom to be delivered to the successful candidate, who was incidentally put in remembrance that he was merely a pageant king. Baliol swore fealty to Edward for his kingdom at Norham, on the 20th of November, 1292 (*n*). The disgraceful scenes wherein we have lately seen ambition display her artifice, and interestedness her pusillanimity, were now closed. A sovereign state was thereby reduced to feudal dependence. From the consequences of so many measures, neither England obtained the great objects that the English monarch endeavoured to gain by so many subterfuges, nor did Scotland avoid the peculiar miseries which the Scottish statesmen feared would be the result of a disputed succession and a civil war.

JOHN BALIOL,

AT the age of forty-three, was inaugurated at Scone, on the 30th of November, 1292, with the accustomed ceremonies. A short month had scarcely passed over in the enjoyment of unsubstantial royalty, when he felt that he was only a dependant king. At Newcastle he did homage to Edward for his kingdom, on the 26th of December, 1292. Other mortifications followed in the train of this degrading rite. A citizen of Berwick appealed from the adjudication of those officers, whom Edward had appointed to administer justice in Scotland during the interregnum. Baliol opposed what he foresaw would involve him in many troubles. He claimed of Edward an attention to his assurances, "that "he would observe the laws and usages of Scotland, which did not admit of "his withdrawing causes for determination in the English judicatories." The Lord Paramount was provoked, by this slight opposition, to avow his real purpose. He declared that, notwithstanding any temporary concessions, he was determined to hear every complaint from Scotland; to administer justice to all persons; and if necessary, to summon the King of Scots to answer in his presence as chief sovereign. This bold avowal seems to have induced the prudent forbearance of Baliol to confirm all that the English king had done during the late interregnum, and to renounce, indeed, every appearance of sovereignty (*o*).

(*m*) See the whole proceedings in Lord Hailes's An., i. 208-221, which are drawn up with adequate precision from the public papers in Rymer's Fœdera, ii., 542, 590.

(*n*) Rym. Fœd., ii., 589-90-91; Prynne, iii., book 5, ch. 3.

(*o*) W. Hemingford, 37; Rym. Fœed., ii., 593-6-7; 3 Prynne; Ryley's Placita, 145.

Edward, however, condescended to return the Isle of Man to Baliol, as it had been enjoyed by Alexander III., reserving his own rights and the pretensions of whatever claimants (*p*). He made a more important resignation to Baliol. While the King of England was employed in collecting from every source documents for supporting his groundless claims on the Scottish crown, he appointed five commissioners to collect, to seize, and to examine all charters, instruments, and other writings, which might concern either public or private rights, within the kingdom of Scotland (*q*). Those documents he now ordered to be returned to Baliol, having gained his insidious object.

The time was at length come when Edward was to treat the Scottish king as a mere Lieutenant of a dependent territory. In 1293 A.D., he ordered Baliol to appear personally in the English judicatories, to answer complaints. His compliance was not very punctual; and Edward ordered three of the principal castles in Scotland to be seized into his hands, until the king of Scots should make satisfaction for his contempt. The execution of this order, as it would have required force, would have amounted to the commencement of hostilities; but the Lord Paramount had at that time a very different object in his military view. In preparing for war with France, Edward not only laid an embargo on all ships within the ports of England, but ordered Baliol to lay an embargo on all the shipping in the harbours of Scotland till his pleasure should be further signified. He required the Scottish king to send him some troops for an expedition into Gascony; he demanded the personal attendance of the principal Barons as the leaders of the Scottish tributaries. But such captious demands were either eluded or postponed; and both parties, being mutually suspicious of each other, now prepared for rancorous hostilities (*r*).

The Parliament which Baliol assembled at Scone in 1294, advised him to dismiss all his English attendants, who were regarded as spies. They appointed twelve Bishops and Barons as a Committee, who were, by their prudence, to assist him in the usual conduct of the public affairs (*s*). Baliol perceiving that the Scottish people were driven almost to despair by the conduct of

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(*p*) Rym. Fœd., ii., 602.

(*q*) Prynne, iii., 548. This writ was herein printed by Prynne, in order to record "what great "esteem and care the king had of the records in Scotland." Yet those records, which were thus removed from the places where they were safely deposited, have not yet been found. Calendar of ancient charters, p. li.-lvi.; Robertson's Index to the Records, p. i.-xxvi. Edward did not destroy those documents, as some historians assert; but his memory is answerable for all the loss and derangement which happened as the necessary consequence of that tyrannical act.

(*r*) Rym. Fœd., ii., 596-7, 607-636; Ryley, 145-153-5-157-9; W. Heming., 75; M. Westm., p. 425

(*s*) Lord Hailes's An., i., 233.

Edward, which was equally imprudent on his side, as it was provoking to an irascible people, entered into a treaty with Philip, the French king, when Scotland and France had a common interest in opposition to England (*t*). They agreed to assist each other against the attacks of Edward. They stipulated, what has seldom been performed, not to make a separate peace, without the consent of the contracting parties; and they strengthened ties, which seemed to be naturally formed from a consideration of the genuine interests of both, by the marriage of the son of Baliol with the daughter of the Count of Anjou. This treaty was concluded on the 23rd of October, 1295 (*u*), a day which was not felicitous to France, and proved fatal to Scotland.

Meantime Edward was too penetrating not to see, in the conduct of Baliol, preparations for war. He had already drawn his sword against Philip; and he now demanded of Baliol possession of the three frontier towns of Berwick, Roxburgh, and Jedburgh, which he engaged to redeliver on the return of peace (*e*).

The Scots, grown impatient at the multiplied demands of Edward, invaded Cumberland with a tumultuous army, which was conducted by John Cumyn, the Earl of Buchan. He assaulted Carlisle on the 28th of March, 1296, but he was disgracefully repulsed. He carried devastation into Northumberland on the 8th of the subsequent April, but he was obliged to retire, more by his want of discipline than by the stroke of an enemy *(f)*.

The King of England, in the meantime, entered the eastern frontier of Scotland with a better appointed army. He immediately attacked Berwick by sea and land, his ships were burnt, yet he took the town by assault, putting the garrison and inhabitants to the sword on the 30th of March, 1296 (*g*). To this barbarity Edward had probably been provoked by some metrical scurrilities, which he promptly revenged by his sharper sword (*h*).

Baliol was induced, by this loss, and advised by his parliament, to renounce formally his allegiance to Edward. He enumerated many provocations, while he forgot his circumspection; but a renunciation, which coincided so much with the apparent object of the King of England, this penetrating sovereign heard with disdain rather than surprise. The Scottish government expelled all those English ecclesiastics who possessed benefices in Scotland with obvious policy, though with doubtful prudence. By the same authority all the

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(*t*) Rym. Fœd., ii., 695; And. Dipl., pl. xli. (*u*) Rym. Fœd., ii., 695.

(*e*) Rym. Fœd., ii., 692. (*f*) W. Heming., i., 87, 93. (*g*) W. Heming., i., 89, 91.

(*h*) Ritson's Anc. Songs, 1792, Dissert., p. xxxi.

partizans of England and all persons pretending to be neutral were forfeited as traitors to a country which was only betrayed by such feeble measures (*i*).

By such threats the operations of Edward were not retarded. He dispatched the Earl of Warenne to retake the castle of Dunbar. The governor agreed to surrender his charge if he were not relieved in three days. The Scottish army hastening to his relief, was attacked, overthrown, and dispersed on the 28th of April, 1296: the only person who in this conflict acted with the firmness of a man and the conduct of a soldier was Sir Patrick de Graham, who maintained his post till he was slain by an enemy that admired his spirit. The grievous fate of Scotland was now decided on an ill-disputed field. The castles of Roxburgh, Edinburgh, and Stirling, followed the example of Dunbar in submitting to the conqueror (*k*); yet two priests, Thomas, chaplain of Edinburgh, and Richard Tulle, had the bravery of spirit to excommunicate Edward before his whole army (*l*). The King of England, however, was not a prince to be pushed aside from his ambitious purpose by priestly weapons. He caused the standard of John of Beverley to be carried at the head of his troops, and the warlike Beck, the Bishop of Durham, to command his advanced guard. The despondency of the nation naturally followed her distractions; and Baliol, whose virtues and talents entitled him to better fortune, had only to implore the mercy of his offended Lord. He was obliged to perform a formal and degrading act, confessing his feudal faults, and resigning his kingdom and his people to his Lord Paramount on the 2nd of July, 1296 (*m*). In this manner the indifference of France and the languor of Scotland produced

AN INTERREGNUM.

The conquered had now no other resource than to submit to the will of the conqueror. Edward made a progress northward to Elgin in Moray, receiv-

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(*i*) Rym. Fœd., ii., 707; Fordun, lib. xi., c. xviii., xxi.

(*k*) Lord Hailes's An., i., 238-9.

(*l*) At a gaol delivery at Stirling, on Thursday, the first of the feast of St. Michael, 24 Ed. I. [1296], Thomas, chaplain of Edinburgh, was attached, for that he had publicly excommunicated Edward, our Lord the King, *by bell* and *candle* before the army in despite of our Lord the King; and also Richard Tulle was attached, for that he had rung the bell on that occasion in contempt of the King. They were both afterwards delivered by the King's order to the archdeacon of *Loves*. Record. 24 Ed. I., in the Chapter-House; Report on the Records, 38; See Hearne's *Textus Roffensis*, 55, for the form of excommunication by bell, book, and candle.

(*m*) Fordun, lib. ix., c. xxvi.; Rym. Fœd., ii., 718; W. Heming., i., 99, 100; Trivet, 293.

ing the baronage and some of the bishops to his peace, whom he obliged to swear fealty to their liege Lord, and to renounce the late treaty with the French king (*n*). Returning to the south, he carried away from Scone the coronation chair, which he ordered to be conveyed to Westminster, as a mark of the superiority of the one kingdom and the degradation of the other (*o*).

Edward convened a Parliament at Berwick on the 28th of August, 1296, in order to add the sanction of oaths to the energies of conquest. He now received the fealty of the clergy and laity of that nation which he had distracted by intrigues and overrun by his power (*p*). Among the Bishops and Barons who entered into this disgraceful submission were Robert Bruce, the elder, and Robert Bruce, the younger, Earl of Carrick; Robert Bruce, the competitor, having died in the preceding year. He adopted more efficacious means of securing his conquest. He restored the estates of the clergy, he provided for the widows of those Barons who had fallen in the conflict, he enforced few forfeitures, he removed few from offices, while he preserved private jurisdictions, and he conciliated the Bishops by granting them the privilege of bequeathing their goods by testament. In addition to those measures of reconcilement, he appointed John Warenne, the Earl of Surrey, the governor of Scotland, Hugh de Cressingham, the treasurer, and William Ormsby, the justiciary. At the end of the year 1296 Edward returned into the south from Berwick, with the self-gratulations of ultimate success in the great object of his policy by his address and valour (*q*).

The recent measures of the English monarch seem not to have been prudently seconded by his officers in Scotland. The Governor lived in England. Cressingham, the Treasurer, who was too opinionative for advice, oppressed a desolated country by his exactions. Ormsby, the justiciary, spread universal discontent by driving all those into exile who refused the oath of fealty (*r*). An administration of so little moderation or forbearance could not expect much regard. Contempt for government, disobedience to law, prevalence of crimes, disorders of every kind, all were the necessary consequences of such a state of society. At a moment so fruitful of adventures came upon the stage William Wallace, the magnanimous vindicator of his country's rights. He was the *second son of Wallace of Ellerslie* in Renfrewshire; a young man of athletic body, of enterprizing habits, of undaunted courage, and of affable manners, with all those talents which were admirably fitted to gain an ascendency in

(*n*) Rym. Fœd., ii., 720. (*o*) Ib., 720; Heming., i., 100, 37. (*p*) Prynne, iii., 652.

(*q*) Rym. Fœd., ii., 723, 727-8-9, 730-1-2; W. Heming., i., 103-18; Fordun, lib. xi., c. 27.

(*r*) W. Heming., i., 118; Trivet, 299.

that age, among such a people, he appears to have enjoyed from nature uncommon talents for war. Being obnoxious to law for some offence which cannot now be traced, he necessarily associated with adventurers of every kind, over whom he easily obtained, by address, such an authority as in those times was not yielded always to power (*s*).

Wallace began his operations against the oppressors of his country in May 1297 (*t*). His first successes collected successively many partizans. He was joined by Sir William Douglas, a man of consequence in Clydesdale. They now attempted to surprise Ormsby, the justiciary, who was then holding his courts at Scone; and he who had driven so many into exile by his severity, was now obliged to derive his safety from flight. Wallace and Douglas successfully attacked the English in every quarter. They returned into the west with the applause which attends success in an honourable cause; and they were immediately joined by Wishart, the Bishop of Glasgow, by the Stewart of Scotland, and by other persons of consideration, who brought a great accession of strength, both by their numbers and characters (*u*).

Among those vindicators of their country's rights appeared not Bruce, the grandson of the competitor, and Earl of Carrick, by descent from his mother. Suspicion had watched his steps; and he had been summoned to Carlisle, where he swore, on the sword of Becket, to be faithful to Edward. As a proof of his sincerity, he laid waste the lands of Douglas, and carried off his wife and children, according to the savage practice of knightly times. As he probably acted an assumed character, he soon repented both of his oath and of his violence, and, putting his trust in the Pope to absolve him from an extorted oath, he joined the Scottish army, as the proper scene for him to perform a genuine part (*x*).

Warenne, the Governor, hastened in the meantime to suppress an insurrection, which had grown into magnitude from his negligence. He found the Scottish army strongly posted near Irvine, who were powerful in numbers, but weak from disunion. The leaders would neither obey nor command; and on the 9th of July 1297, they entered into a treaty, which was negotiated by the bishop of Glasgow, and which ended in the submission of Bruce, of the Stewarts, and other Barons of less consequence. Wallace, seeing the bishop negotiate this pusilla-

(*s*) Fordun, lib. xi., c. 28; Wyntoun's Cronykil, book viii., c. xiii.

(*t*) W. Heming., i., 118-9; Trivet, 299.

(*u*) L. Hailes's An., i., 246. Among those who joined Wallace at this epoch were Sir Andrew Moray of Bothwell, Alexander de Lindesay, Sir Richard Lundin, and the brother of the Stewart.

(*x*) W. Heming., i., 119-20.

nimous treaty, attacked his house as an enemy of his country, pillaged his effects, and carried off his family. Suspicion still clung to Bruce; and he was now obliged to give the Bishop of Glasgow, the Stewart and Lindsay as sureties for his good behaviour, till he should deliver, as an hostage, his daughter Margery, who lived to bring the crown into the family of Stewart (*y*).

But Wallace, disdaining submission, retired into the north with his most faithful adherents. Edward meantime accepted the treaty of Irvine, as he was preparing hostilities against France. He even liberated those Scottish Barons who had drawn their vengeful swords against him in the preceding year; yet he made it a condition of his liberality that they should serve him in the French war. He hoped by this prudent expedient to occupy the Barons, and to waste their followers in foreign expeditions (*z*).

The army of Wallace increased in numbers with the celebrity of his character. He was thus enabled to besiege the castle of Dundee. While occupied in this enterprize he heard that the English army, which was commanded by Warenne, threatened Stirling. The energetic Wallace hastened to the Forth, leaving the citizens of Dundee to blockade their castle. Warenne, who expected to be superseded, naturally wished to avoid a general action. He even tried, by negotiation, to induce the Scottish chief, who contemned submission, to lay down his arms: "We come not to treat," said Wallace, "but "to set Scotland free." The English army, hearing this language of defiance, demanded to be led into hostile action against the bold defier. Warenne hesitated; but Cressingham, the Treasurer, cried out, "Why do we waste the "king's treasures by protracting the war; let us fight as the best economy." The two armies were only parted by the Forth, which was here crossed by a narrow bridge. Prudence suggested that a ford should be sought as the safest passage. The ignorance of Cressingham insisted to lead the army along this dangerous defile. The bravery of the English induced them to follow a leader who showed, by his temerity, that he was unfit to conduct spirited men. Before one half of this misguided army could form, after defiling from the bridge, Wallace charged them with as much conduct as fury. Cressingham met his merited fate: thousands of his devoted followers fell on the field, or perished in the river. A panic seized that part of the English forces which had not felt the swords of the Scots: the fugitives burnt the bridge, which had been built of materials from the neighbouring Torwood; and they fled to Berwick before they felt themselves to be safe. The loss of the Scots on this

(*y*) Rym. Fœd., ii., 774-5; W. Heming., i., 124.

(*z*) W. Heming., i., 124; Rym. Fœd., ii., 772-82.

triumphant day, the 12th of September 1297, would have been inconsiderable, if Sir Andrew Moray, the faithful associate of Wallace, had not been mortally wounded. The victory of Stirling put into the possession of the true owners, the castle of Dundee and other strengths, with Berwick, which was evacuated by the English (*a*). The valour and fortune of Wallace had now freed his country from the claims of a superior, and the Scottish people from the oppression of strangers.

Wallace hastened with his usual ardour to pursue where his victory pointed. He led his army into Cumberland and Northumberland, which, in the savage spirit of the age, he wasted with fire and sword, during several weeks (*b*). He could not restrain the excesses of his followers, though he could command their valour. He associated with him in the conduct of the army and of public affairs, Sir Andrew Moray, the son of the gallant chief who died for his country at the bridge of Stirling, and they both acted in the name of John Baliol, the king of Scots, with the consent of the Scottish kingdom (*c*). In November 1297, they returned into Scotland loaded with plunder, amidst the applause of their countrymen, who had been freed by their valour and were now elated by their success.

Wallace was soon after appointed the guardian of the kingdom and leader of her armies, rather by the acclamations of a grateful people than by the appointment of any regular *authority* (*d*). By this power, however, he directed affairs in the name of Baliol, who was then a prisoner in the Tower of London, and was sent to France, in order to be delivered to the Papal Nuncio in July 1299, with such circumstances of indignity, as excited the contempt of the interested and the pity of the generous (*e*).

Meantime, Edward heard in Flanders of those events which deprived him in a few months of a kingdom, the fruit of so many intrigues and so much

(*a*) Rym. Fœd., ii. 787; W. Heming., i. 126-7, 130; Trivet, 307; Fordun, lib. xi., c. 29; Lord Hailes's An., i. 250-2. The ancient seal of the town of Stirling, which may be seen in Astle's work, pl. 2, No. 3, seems to commemorate this important victory. We may see on the obverse of it the wooden bridge, on which stands a crucifix; on the south side of the bridge may be seen soldiers with their bows, the characteristic weapon of the English, who are attempting to pass; on the northern side are soldiers with spears, the national weapon of the Scots, who defend the passage; the legend is, *Hic armis Bruti, Scoti stant hic cruce tuti,* with a plain allusion to the safety of the Church and State, resulting from the valour and victory of Wallace. See Fordun, lib. xi., c. 29.

(*b*) Ford., lib. xi., c. 29; W. Heming., i. 132.

(*c*) In Hemingford, i. 135, may be seen a copy of the protection which Moray and Wallace gave to the prior of Hexhildesham. Wallace modestly allowed the name of Moray to stand before his own as the leader of the Scottish army.

(*d*) Anderson's Diplom., pl. xliv.

(*e*) Rym. Fœd., ii. 840-46.

bloodshed. He had scarcely returned to England when he summoned the Scottish Barons under the pain of rebellion, to meet him in Parliament at York. Between their hatred of Edward and their fear of Wallace, they disregarded the threatened forfeiture (*f*).

The king of England, by calming the troubles of his kingdom, was enabled to assemble at Berwick an army of almost eighty thousand men. With this mighty force, which was animated by the presence of a warlike prince, Edward entered Berwickshire (*g*). The castle of Dirleton alone retarded his march by a gallant defence. The Scottish fighting men meantime collected, though they were not incited, by the greater Barons. Young Cumyn of Badenach, Sir John Stewart of Bonkil, the brother of the Stewart of Scotland, Sir John Graham, and other Barons of less note, seconded the efforts and strengthened the patriotism of Wallace. Robert Bruce, the Earl of Carrick, did not obey the summons of Edward. He avowed his attachment to his country, yet he did not join the Scottish army under Wallace, owing to whatever cause. He may have conceived, indeed, that he did full as much service to his country by guarding the castle of Ayr on that occasion, by preserving the communication with Galloway and with Argyle, and perhaps, with the more distant isles. In this manner was Bruce employed, while Wallace and his coadjutors fought the influential battle of Falkirk (*h*).

Edward knowing from experience the positions of the country, is said to have resolved to decide the fate of Scotland in the west, rather than in the east; and with this design he ordered his fleet with provisions to meet him in the Clyde. If the Scottish leaders had wasted the country as the enemy advanced and retired beyond the Firths, with design to act offensively, Edward must have retreated from a desert, which could not supply such an army with necessaries; but they determined on a decisive day, which extricated the English

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(*f*) W. Heming., i. 144-5. (*g*) Ib., 160.

(*h*) W. Heming., i. 160-6; Trivet, 314; Lord Hailes says, "that the earlier part of the life of "Bruce was altogether capricious and desultory, and irreconcileable to any principle of honour or "interest." An., i. 256. I do not concur in that judgment. It appears to me that Bruce, who had from nature very vigorous faculties, had his penetrating eye constantly on the crown, which he was told in his nursery belonged to him of right; but having continually before him a choice of difficulties, he was obliged to act from the expedient of the day which pressed upon his fortunes. He had now a peculiar motive for abstaining from the presence of the English army. In the winter of 1297-8, Clifford, the warden of the west marches, had made two inroads into Annandale, wasted his father's estates, burnt Annan, and ten other villages in that vicinity, in retaliation no doubt for the ravages of Wallace. W. Heming., i. 137. It was by such inroads that the two nations were inspired with implacable hatred of each other.

King from the embarrassments of a mutiny and the fears of want. From Temple-Liston he marched to Falkirk, the scene of many conflicts, in the vicinity of which Wallace had drawn up his army with sufficient skill. They met on the 22nd of July, 1298. Between the English gallantry and the Scottish valour, the engagement was fierce and obstinate; but the army of Wallace was at length oppressed by the numbers, overpowered by the cavalry, and harrassed by the bowmen of a well-conducted enemy; and he retired from an obstinately disputed field, whereon were left Sir John Stewart, Sir John Graham, and other intrepid chiefs, who died for their country, and were regretted by the enemy. Wallace retired behind the Forth, having burnt, amidst the confusion of flight, the town and castle of Stirling. Edward repaired that strength, and made it a place of arms. He now marched into the west with design to chastise Bruce; but that enterprizing Earl, after burning the castle of Ayr, which might have strengthened his enemy, retreated into the fastnesses of Carrick. The perseverance of Edward would have followed his steps if want had not warned him to retire. He at length directed a willing army to return into England, and marching through Annandale, he took the castle of Lochmaben, the baronial residence of the Bruces, and wasted their estates (*i*). Edward closed the campaign of 1298, wherein expectation was disappointed, by dividing the estates of the Scottish Barons among his principal followers, before conquest had gained possession and tranquility could ensure enjoyment (*k*).

Galloway was still unsubdued, and ancient Caledonia continued to enjoy her native freedom beyond the Friths. The misfortune at Falkirk deprived Wallace of power and lessened his influence. At this moment, when necessity dictated what convenience approved, William Lamberton, the bishop of St. Andrews, Robert Bruce, the Earl of Carrick, and John Cumyn, the younger, were appointed, by general consent, the guardians of Scotland in the name and place of Baliol (*l*). The new rulers tried to imitate the enterprize of Wallace. Knowing that the Scottish people were rather defeated than discouraged, they undertook the siege of Stirling Castle. In order to secure success they prudently encamped in the strong position of the Torwood where the cavalry, which had decided the field at Falkirk, could not act, and the infantry must have met the Scottish spears on disadvantageous ground. Edward, however, determined to try their firmness, as he was sensible of the importance of Stirling at the passage of the Forth. With this design he assembled his military vassals at Berwick, in November, 1299, after holding his Parliament at York;

(*i*) Trivet, 314. (*k*) W. Heming., i., 166. (*l*) Rym. Fœd., ii., 859.

but his Barons refused to advance, urging the dangers of a winter campaign in such a clime; but recollecting that their grievances had not been redressed by a sovereign who felt only for himself. His disappointment induced him to order the garrison of Stirling to capitulate; and disgust urged him to retire from a dissatisfied baronage (*m*). The guardians applied, meanwhile, to the charity of Edward for the respite of a truce, which his policy denied to their prayers (*n*).

The impatience of the Scots had now learned to watch occasions—to trust to intrigue when they could not expect success from arms—and their perseverance derived protection from the dissatisfaction of the English people, who did not feel a strong interest in this struggle between ambition and freedom. During the year 1300, the efforts of Edward were, owing to those causes, confined to an irruption into the great peninsula of ancient Galloway. After summoning his Barons to Carlisle, he entered Annandale, the land of the Bruces, on the 26th of June. He subdued the castle of Caerlaverock, he wasted the country without opposition, as experience had taught the Scots to decline engagements; and penetrating to Kirkcudbright, he received the submissions of the men of Galloway. The progress of Edward beyond the limits of Galloway was stopped by an intimation from ecclesiastical authority that his war was irreligious. When he returned to New Abbey, on the northern margin of the Solway, he was met by the Archbishop of Canterbury, who communicated to him before his whole army a bull of Boniface VIII., stating his injustice, and requiring that he should discharge all the ministers of religion whom he sacriligiously detained as his prisoners. Edward advisedly said "it was the "custom of England that an affair which related to the whole kingdom "should be considered by the great council of the realm (*o*)." The bishop of Glasgow, who had long been confined, was soon after set at liberty on his taking an oath of fidelity to the Lord Paramount upon the consecrated host, upon the cross *neyt*, and upon the black rode of Scotland (*p*); yet experience had shown that such oaths, however the sanctions might be multiplied, were not considered in that age as sacred. At Dumfries, on the 30th of October, 1300, under the mediation of France, Edward concluded with the Scots a truce

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(*m*) W. Heming., i., 170; Trivet, 316.

(*n*) Rym. Fœd., ii., 859. Their application was dated the 13th November, 1299.

(*o*) Prynne, iii., 882-3.

(*p*) Rym. Fœd., ii., 867. The *croiz neytz* was the white cross of St. Andrew, on which they used to swear in Scotland. Kelham, Norm. Dict., in vo. *Neytz*.

which was to endure till Whitsunday 1301, when the season of action would again approach (*q*).

(*q*) Rym. Fœd., ii., 868. In the *wardrobe account* of Edward I. during the year 1300, which has been published by the Antiquary Society of London, there are a thousand particulars of his campaign in that year, as well as many curious notices with regard to North-Britain, her castles, and economy. As history becomes less interesting as it becomes more general, I will submit to the more curious reader the particulars of Edward's campaign in 1300 from that authentic document.

Edward was at Carlisle on the 1st and 5th of July, 1300. On the 6th of July he was at Applegarth in Annandale, to which many necessaries were sent from England for this campaign. The king made an oblation of 7s. at St. Nicholas's altar in the church of Applegarth, and a similar oblation in the same church in honour of St. Thomas. On the 8th of July he was at Tinwald. On the 10th the king made an oblation of 7s. at the altar in the church of the Minor Friars at Dumfries. On the 12th he made a similar oblation in his chapel at Caerlaverock in honour of St. Thomas. On the 14th he remained at Caerlaverock. On the 16th the king made another oblation in the church of the Minor Friars at Dumfries. On this occasion he gave the Minor Friars 6s. for his victuals when he visited Dumfries in June, and he gave them another 6s. for the damage they may have sustained in their houses owing to his visits in June. On the 17th he made his accustomed oblation in his chapel at Lochroiton [in East Galloway]. On the 19th of July he made his usual oblation in the priory church at Kirkcudbright. On the 20th, the 22nd, the 24th, the 25th, the 27th, he made his oblations at Kirkcudbright. On the last day of July he paid to William de Rude, for the hire of 4 hackneys two days in carrying money from Lochmaben to Twyneham [on the west side of the Dee, 2½ miles N.W. from Kirkcudbright]. On the 1st of August the king made his usual oblation at Twyneham. He continued these oblations every day at Twyneham till the 8th. On the 9th he made his usual oblations at the Fleet [at Girthon, nearly 6 miles W.N.W. from Kirkcudbright]. On the 10th, after his usual oblation, he sent John de Lawford from Gerton on the Fleet to Carlisle for money to pay his household and the army On the 15th he made his usual oblation in honour of the assumption of the blessed Mary. On the 19th and 20th he was at Crossmichael. On the 23rd he made his usual oblation in his chapel at Sutheck. [He was now on his return, Southwick being between Kirkcudbright and Caerlaverock]. On the 24th the court was at the Abbey of Douzquer [Sweetheart in East Galloway]. On the 29th he made his usual oblation at Caerlaverock. On the 30th and 31st he was at Drunnock [Dornock, east of Annan]; and on the 2nd of September he was at Holmcultram, where he seems to have remained, at least in its neighbourhood, throughout September. At Holmcultram and Carlisle he remained till the 16th of October, when he set out for Dumfries. On the 17th the king and queen were at Dumfries. On the 24th he made an oblation in his chapel there, for good news from Galloway, according to his common practice. On the 1st of November the Feast of all Saints was celebrated in the church of the Minor Friars at Dumfries. On the 3rd of November he made his usual oblation at Caerlaverock; on the same day he set out for Carlisle, after the proclamation of the truce with the Scots. Before he left Dumfries he gave a donation to the Minor Friars of 5s. 4d. for four days' victuals, according to the king's common custom.

From the wardrobe account it also appears that the English army took its departure from Carlisle on the 26th of June, 1300, marched through Dumfriesshire into Galloway, and penetrated to Wigton and even to Ayr, if a detachment had not been left in the castle of Ayr during the

Such were the powerful influences which brought a salutary respite to Scotland. A new competitor for her crown had now appeared in the field of pretension. Boniface VIII., by the bull which the archbishop of Canterbury had delivered to Edward at New Abbey, with a reluctant hand, confuted the pretensions of the Lord Paramount, and set forth his own. Edward's title, by lawful transmission from the *Trojan Brute*, vanished before the indefeasible infeoffment of St. Andrew (*r*). The Paramount Pontiff, in imitation of the Paramount King, assumed to himself the cognizance of the cause in which he had himself so great an interest; and he required Edward to send his proctors to Rome, in order to support his pretensions and to defend his practices. This interposition of Boniface was not by any means spontaneous. Scottish emissaries had found their way to that ancient seat of corrupt intrigue. Among other agents, Baldred Bisset, who is still remembered as an artful partizan, had supplied the Pope with the historical documents, which formed the irrefragable title of the Roman Pontiff (*s*).

Ridiculous as the pretensions of the Pope may now appear, they extremely embarrassed Edward, whose claim was equally ridiculous but more overbearing. The king referred the difficult affair to the Parliament, which he called to meet

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preceding campaign. There was, indeed, no battle, as the Scots had no army to oppose the king's advance; but the Scots, by sudden and various attacks, greatly harassed the English army. We accordingly see allowances for horses which were killed by the Scots on the Fleet, on the Cree, at the bridge of Dee, at Cullendach on the Fleet. William de Gretham, a monk of Durham, carried the banner of St. Cuthbert at the king's request, for which service he was allowed 5 l. for fifty-three days' expenses. The king was attended by transports, which supplied the army with provisions as well as the garrisons, bringing every necessary not only from the ports of Cumberland but from the ports of Ireland. Corn was sent from Galloway to England, and even to Dublin, to be ground and brought back in a manufactured state. Bakers were sent from Carlisle into Galloway, to accommodate the English army. The town of Drogheda sent to the king at Kirkcudbright a present of 80 hogsheads of wine, and the king made an allowance of 13s. 4d. to John de Cnocfergus for bringing the wine in his ship. The army returned to Carlisle from Galloway in various detachments in September, October, and November. He made several allowances for damages done by his troops on their return. He gave two hogsheads of wine to William de Carlile, and to Ade, the widow of Robert de la Fierte, for damage done to their corns at Dornock; for 80 acres of oats that were destroyed the day the army lodged at Dornock, the king allowed to Will. de Carlile 24 l., or 6s. per acre. When Edward was at Girthon, on the Fleet, he received from Dame Margaret de Multon 13s. 4d. for the restitution of her liberty. From Henry, the miller, who rented the mill of Girthon, he received 13s. 4d. for some malversation that had been found in his mill. He received from the town of Fleet 40s., for their bad measures and other transgressions. During the winter of 1300, Edward erected a *pele*, or castle, at Dumfries, bringing materials and workmen from the north of England at a vast expense.

(*r*) The Bull is in Rym. Fœd., ii. 844.

(*s*) Rym. Fœd., ii. 883; Walsing., 78; Fordun, lib. xi., c. 35.

him at Lincoln, on the 31st January, 1301. Scholars and jurists were now summoned from Oxford and Cambridge, to give their juridical assistance. The monasteries were again ransacked for documents, as if fiction could be converted into fact, and sophistry into logic. The Parliament firmly declined the Pope's jurisdiction as to *temporals*, and zealously maintained the king's title by such arguments as ingenuity will always find, when they are sought by power. Edward wrote Boniface an epistle which, as it was more diffuse, was more feeble, and as it was more elaborate, by deducing his claim from *Brute*, was more absurd. He acted, however, upon the perfect conviction of the justice of his title, and the rectitude of his measures (*t*).

The truce with the Scots was now expired; and being at length fortified by the opinion of his Parliament, Edward hastily entered Scotland on the 3d of July, 1301. The Scots left the defence of their country to its own ruggedness and to the wants of the invaders; and the scarcity of forage allowed him only to penetrate to Glasgow, and retiring thence to Linlithgow, he there enjoyed the festivities of Christmas, and built a strength (*u*). Meantime, he consented to a truce with the Scots, which was settled at Dunipace, on the 14th October, 1301 (*x*), and was to endure till the 30th of November, 1302 (*y*).

In the meantime, Boniface, owing to whatever cause, changed both his pretensions and his tone. He coolly reprehended Wishart, the bishop of Glas-

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(*t*) Rym. Fœd., ii. 873, 883-8; Prynne Coll., iii. 882, 894. In the Ashmolean Lib. Oxf., No. 8573, there is the "Protestatio Magnatum Angliæ super Literis Bonifacis VIII. Papa in "Parliamento exhibitis tangentibus jus superioritatis & Dominij Regis Angliæ in Regnum Scotiæ, "28 Edw. I."

(*u*) W. Heming., i. 196; Trivet, 332.

(*x*) Rym. Fœd., ii. 892.

(*y*) The subjoined dates, which were collected from writs that were issued by Edward during the inefficient campaign of 1301, will exhibit his progress more distinctly than has yet been done, and incidentally show that Lord Hailes was somewhat inaccurate in saying, "that Edward win- "tered at Linlithgow." On the 1st of July, 1301, Edward was on his journey northward at Charleton; on the 2nd at Bamburgh; on the 3rd at Halieland and Berewic; on the 22nd at Kelshew [Kelso]; on the 24th at Rokesburgh and Middleham; on the 4th of August at Peblis; on the 20th at Glasgow, when he offered oblations at the shrine of St. Kentigern in the cathedral church; on the 24th at Glasgow; on the 25th he offered oblations at the same shrine, "for the "good news of Sir Malcolm de Drummond, knight, a Scot, being taken prisoner by Sir John "Segrave;" on the 4th of September at Mairnes [the castle of Mearns]; on the 8th at Botheville; on the 24th at Glasgow; on the 14th of October at Donypas; on the 24th at Manewell [the monastery of Manuel]; on the 25th at Linlithcu; on the 29th at Donypas; on the 18th of December at Linlithcu, whence he directed prayers to be universally offered for himself, his queen and children, for his kingdom, and for his success in the subjugation of Scotland; on the 26th of January at Linlithcu; on the 12th of February he was at Rokesburgh, on his journey southward; and on the 24th at Morpeth.

gow, as the prime instigator of the fatal warfare which had long continued between his dearly beloved son Edward and the Scottish nation; with similar effrontery he exhorted the other bishops of Scotland to promote the national peace, under the threatened pain of his displeasure (*z*). They probably knew his motives, and certainly despised his profligacy.

The truce had scarcely expired when Edward recommenced hostilities, so eager was he to regain or ruin an unhappy land which owed him no obedience. He sent John de Segreve, a noted warrior, to invade Scotland. The English were now deluded by the recent forbearance of the Scots. Under this impression Segreve marched towards Edinburgh in three divisions for the convenience of forage. John Cumyn, the Guardian, and Simon Fraser, the keeper of Selkirk Forest, had not been inattentive to this want of circumspection. They attacked him near Roslin, on the 24th of February, 1302-3, with such skill and steadiness, that they defeated his three divisions in detail, though the English fought with their accustomed bravery (*a*).

Scotland, which was again freed, could only be saved by such efforts, as she was left to struggle alone against a too powerful neighbour. She had already been deserted by the Pope, and she was now tacitly resigned to her fate by the French king, who made a separate peace with the English monarch, on the 20th of May, 1303 (*b*). She was even misled by her seven commissaries, who intrigued at Paris, and were themselves deluded by the duplicity of France (*c*).

Edward at length turned his undivided attention to Scotland, which he had finally resolved to subdue and settle. He summoned all his military vassals from England, from Ireland, and from Gascony, to meet him at Berwick; and he entered a devoted country on the 10th of May, 1303, with an irresistable force. Whatever power the Scots could have assembled they were too experienced to meet that warlike monarch in the field. He marched forward by easy journies to Linlithgow. He probably passed the Forth near Alloa, with the assistance of the shipping which accompanied him, about the 10th of June, showing by that passage his intention to penetrate into the north. He remained three weeks at Perth, which, from the epoch of Lollius Urbicus to the recent times of Wade and Cumberland, has been the scene of many military consultations, owing to its central position. Edward determined to follow the north-eastern course of the Roman road, and his progress was first obstructed

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(*z*) Rym. Fœd., ii. 904-5; Lord Hailes's An., i. 271.

(*a*) W. Heming., i. 297-8; Trivet, 336; Fordun, lib. xii., c. ii.

(*b*) Rym. Fœd., ii. 923.

(*c*) Ib., 929; Lord Hailes's An., i. 273-5.

by the castle of Brechin, which was defended during a month by the gallant Sir Thomas Maule, who fell in the act of inciting his men to an obstinate resistance. The castle surrendered, when the spirit of Maule no longer directed its defence. The king of England now continued his triumphant career into Moray, taking the homage which was everywhere yielded rather to his power than to his pretensions. From Kinloss, where he remained a month, he returned southward, on the 11th of October. By hasty marches, he arrived before the 6th of November at Dunfermline Abbey, which, owing to the munificence of the Scottish kings, now afforded him splendid accommodations for his Christmas festivities.

When Edward passed northward, he left the castle of Stirling unassailed, because he was aware of its strength. Cumyn, knowing its importance as the last hope of his country, assembled his whole force on the southern margin of the Forth, to protect it. The genius of Edward readily found the same ford, which had enabled the Roman armies to pass that difficult river, in the vicinity of the rocky height. When the Scots saw the English monarch ford the river at the head of his cavalry, they fled as if they had been surprised or disappointed. Cumyn entered into an agreement with the English Commissioners at Strathurd, on the 9th of February, 1303-4, whereby he saved his own adherents, and sacrificed the friends of Scotland (*d*). Bruce had already surrendered himself to St. John, the warden of the western borders (*e*).

In the beginning of March 1304, Edward repaired to St. Andrews. At this metropolitan seat, he now assembled a great council, which was composed both of English and Scottish Barons. In this assembly were outlawed Sir William Wallace, Simon Fraser, and the garrison of Stirling, which had hitherto resisted his artifice and defied his power. By his great council, he was now advised to reduce the only remaining strength in Scotland, and with sacrilegious hands, he despoiled the cathedral of the lead which covered it, as hostile provision for a difficult siege (*f*).

Sir William Oliphant, to whom the castle of Stirling had been entrusted, gained immortal honour by the faithfulness of his spirit and the intrepidity of his perseverance. During three months, all the bravery, skill and enterprize of the age, were employed to reduce its defences to rubbish. The king himself, though stricken in years, exposed his person with the temerity of youth; but he did injustice to his own gallantry, by refusing a capitulation to the

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(*d*) Ryley's Placita, 369-70.

(*e*) Trivet, 334; Ryley's Placita, 369-70.

(*f*) Trivet, 338; Fordun, lib. xii., c. iii.

request of Oliphant, whose fidelity demanded his favour, and whose valour merited his admiration. Scotland was now subdued by the intrigue and warfare of many years. Wallace alone remained, unsullied in his character, and unsubdued in his spirit. Edward departed for England, still distrusting his own success, while that man, of whom a nation may boast, continued in freedom (*g*).

Of Edward, it cannot be said that he came into Scotland to save rather than destroy. The torch every where conducted him to his object; devastation followed in his rear, throughout his extended course from the Forth to the Moray Firth. The abbeys which supplied him with the most commodious lodgings, he burnt. The Benedictine Abbey of Dunfermline, which could have then accommodated three sovereigns and their attendants within its ample precincts, was destroyed by the English army, when they no longer wanted its abundant hospitality. Thus the fury of Edward began that destruction of religious houses which the fanaticism of Knox completed (*h*).

Edward at length proceeded to the more difficult task of settling the government of the country, which he had overrun by his power, and injured by his

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(*g*) W. Heming., i. 205-6; M. West., 446-9; Rym. Fœd., ii. 951; Fordun, lib. xii., c. iii.; Lord Hailes's An., i. 275-9. Lord Hailes has published a series of dates from the instruments in Prynne and Rymer's Collections, for ascertaining the progress of Edward in the excursive year 1303; the subjoined dates will be found to be more numerous and illustrative of Edward's campaign, both as to the course and extent of his progress. He was at Westminster on the 8th of March, 1303; at Beverley on the 21st of April; at Newcastle on the 7th of May; at Alnwyke on the 9th of May; at Roxburgh on the 17th and 21st of May; at Edinburgh on the 4th of June; at Lythgow on the 6th; at Clackmannan on the 12th and 14th, having probably crossed the Forth near Alloa; at Perth on the 16th of June, and to the 10th of July; at Kyncardyn on the 17th of August, having taken the castle of Brechin in the meantime; at Aberdeen on the 24th; at Banff on the 4th of September; at Kinloss, in Moray, on the 9th of September, and to the 20th; at Kildrummy, near Nairn, on the 8th of October, he thence returned to Kinloss on the 10th. These last dates prove that he did not extend his progress to Caithness, as Trivet and other writers assert, though he may have sent detachments into that country. Returning southward from the Abbey of Kinloss, he was at Dundee on the 20th of October; at Cambuskyneth on the 1st of November; at Dunfermlin on the 6th of November, and to the 10th of February, 1303-4; at Cambuskyneth on the 5th of March; at St. Andrews on the 12th of March, to the 4th of April; at Drumkaragh [Drumcarra, in Fife] on the 7th of April; at Donary on the 10th of April; at Stryvelyn on the 1st of May, and to the 29th of July. Returning southward, he was at Boghkener [Bothkener] on the 13th of August; at Jeddeworth [Jedburgh] on the 23rd of August; at Yetham [Yetholm, in Roxburghshire] on the 24th of August; at Morpeth on the 28th of August; and at York on the 18th of October, 1304.

(*h*) M. Westm., 446. Dunfermline, Haddington, Melrose, Dryburgh, were all destroyed by the English. Lord Hailes's An., i. 276. Restenet, and other religious establishments, were equally destroyed by them. Rolls Parl., i. 471-3.

artifice. In this arduous work, he seems to have placed his chief confidence in Wishart, the Bishop of Glasgow, Bruce, the Earl of Carrick, and John de Mowbray. On the 26th of March, 1305, they advised him to call a great council of the Scots at Perth, for the purpose of choosing ten Commissioners to meet twenty Commissioners of the English nation at London, in order to adjust such an arrangement as should embrace the interests and stability of the two realms (*i*). Such a council was held, and such Commissioners were chosen, who met Edward in Parliament on the 22nd of September, 1305 (*k*). The laws of Scotland were not now abolished, as some historians assert; but the Celtic customs of the Britons and Scots were abrogated, because they did not easily coalesce with the modern usages. As many of the old forms were allowed to remain as present circumstances would allow, the private property, which forfeiture had left, was resigned to the protection of law. The rights of hereditary officers were respected. The executive government was placed in the king's Lieutenant and Chamberlain. The castles were placed in the hands of trusty officers. Many individuals were punished either by fine or disqualification; and measures were provided either to arrest or banish all such persons as were likely to disturb tranquility by their intrigues, or raise commotions by their vigour (*l*). On that occasion, it must be allowed that Edward acted more as a legislator than in his character of conqueror, since moderation seems to have dictated what policy approved, though the Scottish people had been too much injured to admit of reconcilement.

Wallace, however, was still alive, enjoying obscure freedom in his native wilds. Activity and artifice discovered at length the place of his retreat. He was arrested by Sir John Menteith, the sheriff of Dumbartonshire, and sent to London in fetters. He was now tried for the odious guilt of high treason. Wallace denied that he had departed from the allegiance which he had never sworn. He admitted that he had levied war against the king of England, in support of his country's freedom; and being found guilty, he suffered the aggravated pains of treason on the 23rd of August, 1305 (*m*). Such was the unworthy fate of the only pure character of which Scotland could boast during those difficult times. The fond admiration of his countrymen has attributed to Wallace the incredible feats of ancient heroism; but such was his disinterestedness, his valour and his services, that his fame needs not the heightenings of fiction for its durability.

(*i*) Ryley's Placita, 243. (*k*) Ib., 503.

(*l*) Ib.; Rolls of Parl., i., 267; Hailes's An., i., 283-89.

(*m*) Trivet, 340; Stow's Chronicle, 209.

Yet Robert Bruce still remained, who was a more dangerous foe to Edward, and a more successful friend to Scotland; having as much enterprize and bravery as the valorous and unsubmitting Wallace, with more suppleness and greater address. The education of Robert Bruce had taught him to consider the decision of the king of England, in favour of Baliol, as the unjust deprivation of his fairest inheritance. During the recent struggles for the subordination or the independence of Scotland, the ambition of Bruce constantly looked up to the diadem as the ultimate object of all his aims. While he was acting with Wishart, the Bishop of Glasgow, as the adviser of Edward in the settlement of Scotland, the Earl of Carrick entered into an agreement of mutual concert and help with Lamberton, the Bishop of St. Andrews (*n*). The genuine object of such an agreement during such times, it required not a strong sight to perceive. The rivality of Bruce regarded John Cumyn as a competitor for the crown, and as the obstructor of his fortune. These two potent Barons met accidentally at Dumfries, while the English judges were holding their usual assizes. An expostulation ensued between those rivals in the church of the Minorites. Altercation was easily roused to fury, between men who, like the characters on the theatre of Rome, could not brook a superior, and could hardly bear an equal. In that sacred place, on the 10th of February, 1305-6, Bruce gave a mortal wound to Cumyn, who was despatched by Kirkpatrick, a partizan of his rival. The justiciaries, instead of arresting Bruce, were themselves made prisoners by him; and yet were allowed to depart for England without further molestation (*o*), as their detention would only have been an embarrassment.

Accident had now obliged Bruce to avow his object. After choosing the least of many a difficulty during several years, the Earl of Carrick had at length to decide whether he would choose to be punished as a felon, or revered as a king. The manners of a rude age, which induced men to consider, as a manly effort for the freedom of his country, what would now be deemed an aggravated murder, enabled the slayer of Cumyn to decide the alternative. Robert Bruce ascended the throne of his ancestors at the age of thirty two, in the face of a thousand obstacles, supported by a few friends, strengthened by the resources of his own genius, and animated by his own valour (*p*). At Scone, the ancient seat of Scottish inaugurations, was the Earl of Carrick crowned king

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(*n*) Lord Hailes was the first who published, from ancient MS. muniments, this curious document, which is dated at Cambuskyneth, the 11th of June, 1304. Annals, i., 280.

(*o*) W. Heming., i., 220; M. West., 453; Trivet, 342.

(*p*) Trivet, 342; M. West., 454; Fordun, lib. xii., c. 9.

of Scots, on the 27th of March 1306, without *the regalia*, which Edward had carried to Westminster. But the occasion always supplies such requisites. Lamberton, the Bishop of St. Andrews, crowned Robert Bruce. The Bishop of Glasgow furnished him with the robes and a banner. A golden crown was found by the nearest artist. Isabella, the Countess of Buchan, the sister of the Earl of Fife, had the manliness to act the part of her brother, who, from ancient descent, had the privilege of placing the Scottish kings in the inaugural chair; and any lapideous matter would sufficiently supply the place of the *fatal stone.* Such a concurrence of circumstances evince the popularity of the act, the applause of the country, and the resolution of the people to support Bruce with their spears (*q*).

(*q*) For their conduct on that occasion the bishops would have lost their heads, if their ecclesiastical characters had not shielded them from the vengeance of Edward. The bishop of Glasgow was accused by the English king before the Pope, for that the bishop provided out of his own wardrobe *the robes* which the Earl of Carrick was to appear in on the day when he was to act as king, and had moreover delivered to the Earl of Carrick "a banner of the arms of the late king of "Scotland, which the bishop had concealed in his treasury and sent to the Abbey of Scone." Rymer's second Letter to Bishop Nicolson, 88. In the Pat. Rolls of the 35 Ed. I., there is a pardon to Walter de Coigners for concealing and detaining the *golden crown* with which Robert Bruce was crowned. Not so the intrepid Countess of Buchan, who is characterized by M. Westminster as "impiissima conjuratrix"; she was actually imprisoned in a *wooden cage,* within the castle of Berwick, by the special order of the enraged Edward. Rym. Fœd., ii., 1014, attests this disgraceful fact. This illustrious woman seems to have died in her *wooden cage,* as she never appeared again upon the gory stage of the Scottish history, nor has my research found her afterwards mentioned in any record or noticed by any writer.

CHAP. III.

Of the Ecclesiastical History during this Period.

THE church establishment of Scotland remained imperfect at the recent commencement of the Scoto-Saxon period, in 1097 A.D. Some parishes, indeed, had long been formed, though not by the special authority of any king or the spiritual influence of any Bishop; ministers had regularly performed their usual functions, and tithes and other ecclesiastical dues had been undoubtedly paid (*a*) : yet, is there reason to believe, that though bishops had existed for ages, bishoprics had not been locally settled when that period began (*b*).

Godric, as he was the Bishop of the Scots in 1097, had the doubtful honour of inaugurating Edgar, though he had never been himself consecrated, owing to the disputed jurisdiction of the ecclesiastical power which ought to perform the necessary consecration. He died in 1107, leaving his imperfect rights to be defended by an abler king than Edgar. Turgot, the prior of Durham, who had been confessor to Margaret, was now nominated by Alexander I. as the successor of Godric, and confirmed by the clergy; but his consecration was for many months delayed. There was not in Scotland at that epoch any authority, which, according to the constitution of the church, could perform the metropolitan act of consecration. This power had been pertinaciously claimed by the Archbishop of York, and obstinately denied by the Scottish clergy. The Archbishop of Canterbury disputed the jurisdiction of the Archbishop of York to consecrate the Bishops of the Scots. This competi-

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(*a*) See before, book iii., ch. viii. Though many parishes were laid out during the Scottish period, yet many such districts were progressively settled during the present period, when so many ecclesiastical changes were made.

(*b*) See the seals of the Bishops of St. Andrews even as low down as A.D. 1188, on which the prelates, Robert, Arnald, and Richard, each entitles himself *Scottorum Episcopus;* and Diplom., pl. 100; Anglia Sacra, ii., 234-6; whence we may infer that their predecessors had considered themselves as Bishops of the Scottish people.

tion of rival metropolitans evinces that neither of them had an indisputable right. The knot which could not be cut by controversy was at length untied by compromise. Henry I. in concert with Alexander I. enjoined the Archbishop of York to consecrate Turgot, saving the right of either church; and the consecration was performed on the 30th July, 1109, without any profession of archiepiscopal obedience (*c*).

But the death of Turgot in 1115 (*d*), after an unsuccessful government of an extensive see, only revived former pretensions, reinvigorated subsequent demands, and inspired ultimate denials. Alexander I. artfully applied to Ralph, the Archbishop of Canterbury, for his advice and assistance in the choice and consecration of a successor to the aged Turgot. After the hesitation of years, the Archbishop sent Eadmer to Alexander as a fit person to rule the Scotican church. This monk of Canterbury was received as Bishop of St. Andrews by the Queen, by the clergy, and the nation. But the disputed act of consecration still remained to be performed, and the litigated point of canonical obedience continued to disturb the peace of an unreformed Church. Eadmer was so weak as not to know that people must be governed in conformity to their principles; and Alexander was resolved, from the vigour of his habit and the conviction of his interest, "to be every thing himself in his own kingdom." The king resisted the remonstrances of the Archbishop, and refused the submissions of the monk (*e*), as the besotted Eadmer preferred his connection with Canterbury to the independence of the Scotican church.

Meanwhile the greatest efforts were made by the Pope and Thurstin to obtain a sufficient number of suffragans for the see of York. The Popes Paschal *(f)*, Calixtus, Honorius, and Innocent, successively exerted themselves to subject the Orkneys, the Western Isles, Galloway, Cumbria, and Scotland, to the ecclesiastical jurisdiction of the ambitious Thurstin (*g*). But their per-

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(*c*) Eadmer, 17-98; Sim. Dun., 207-232; Innes's MS. Chronicon.

(*d*) Innes's MS. Chronol. Scotiæ, sub an.

(*e*) Eadmer, 130-33. Angl. Sacra, ii. 234.

(*f*) He governed the church from A.D. 1099 to 1118; Calixtus from 1119 to 1124; Honorius from 1124 to 1130; and Innocent from 1130 to 1143.

(*g*) Angl. Sacra, ii. 234-6; Torfæus, lib. ii. 129. See the Pope's letters to the King of Norway, *admonishing him in the Lord* to place the Bishop of Orkney and the Isles under the See of York. Dug. Monast., iii. 144-5. The bishopric of *Candida Casa* was now revived; and Gilla-Aldan, the bishop elect, was admonished to put himself under the archiepiscopal authority of Thurstin. Gilla-Aldan willingly obeyed the Pope's mandate, considering it as a duty which had come down to him from ancient times. Ib., 145-48. The Bishops of Candida Casa long regarded themselves as under a distinct jurisdiction from Scotland. The episcopate of Glasgow severing efforts were ultimately baffled by the intelligent firmness of the Scottish kings and the vigorous struggles of the Scottish prelates.

Alexander I., who constantly opposed a firm front to every ecclesiastical attack on the independence of his crown, only lived to find a successor to Eadmer in Robert, the Prior of Scone. Thurstin revived the pretensions of his see, which were left to the policy of David to settle. At the accession of Alexander in January, 1106-7, he found prelates performing their undefined functions within the Scottish territories (*e*). During his reign, though not under his authority, the bishopric of Glasgow was revived. Alexander gave ample possessions to the church of St. Andrews (*f*). He enlarged the funds of the abbey of Dunfermline, which the piety of his mother had endowed (*g*). After founding the monastery of Scone in A.D. 1114, he placed therein a colony of Canons regular from England (*h*). To the same Canons he gave Inch Tay in 1122, where a monastery was built, and wherein Sibilla his queen was buried (*i*). He founded at St. Andrews a priory in honour of the apostle of Scotland (*k*), and he erected in 1123 a religious house in one of the islets of the Forth, which he gratefully dedicated to Columba, to whose intercession, says the legend, he owed his safety from shipwreck (*l*). Such were the ecclesiastical establishments which owed their foundation to the munificence or policy of an able prince during a religious age.

Robert, who was chosen the Bishop of St. Andrews in 1124, did not obtain consecration till 1128 (*m*). Thurstin, from a love of God and a respect for David I., consecrated Robert without any profession of obedience, reserving

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was also revived about A.D. 1116; and John, the tutor of David, the earl, was consecrated by Pope Paschal in 1117. Innes's MS. Chron., sub An. Calixtus, and Innocent often urged him by the most pressing admonitions, to obey the Archbishop of York as his metropolitan, but without effect. Dug. Monast., iii. 145-7. The Scottish kings were also admonished by the same Popes to place their church under the same jurisdiction, but without success. Id. Yet is the prejudice of Sir James Dalrymple constantly charging both the kings and bishops of Scotland with the design of introducing the Romish power and practices among the Scottish people. See his *Collections* everywhere; but the jaundiced eyes of Sir James had not seen the interesting epistles before quoted in Dug. Monast., iii. 143-8. Those curious papers equally escaped the minute industry of Bishop Keith, and the learned diligence of Lord Hailes.

(*e*) Chart. of Scone.

(*f*) Ford., lib. v., c. 36-7.

(*g*) Chart. Dunfermline; Dalr. Col., Ap. iii.

(*h*) Chart. Scone; Dalr. Col., Ap. ii.

(*i*) Spottiswoode, 414.

(*k*) Ib., 416.

(*l*) Fordun, l. v., c. 28.

(*m*) Innes MS. Chron. sub An.; Flor. Wig., 506.

the rights of the two sees of York and St. Andrews (*n*). The Pope, as supreme head of the Church, had the undoubted right of consecration, in the opinion of those ages, according to the established law of the christian world. The Archbishop of Canterbury had neither, from custom nor practice, any pretence of superiority over the Scotican Church. Whatever power the Bishop of York may have exercised over Lothian, or Whithorn, during the seventh and eighth centuries ceased at the commencement of the ninth age, when anarchy freed those countries from the claims of Northumberland. The Bishop of York never exercised any ecclesiastical authority over proper Scotland. The recent attempts of the Popes to subject the bishops of Scotland, as suffragans of York, evince that the ancient practice was deemed merely a pretence. The spiritual jurisdiction of the Pope was in that age acknowledged. His temporal power was disputed, because it would have absorbed the sovereign rights of independent princes. After many struggles Celestine III. declared, in 1188, the Church of Scotland to be "the daughter of Rome, by special grace," and to be *immediately* subject to the apostolic jurisdiction (*o*). Amidst the prejudices of the age, this declaration of Celestine was regarded by the Scottish clergy as a *great charter*, which operated as an impregnable shield against the groundless pretensions of the Archbishops of York and Canterbury.

Robert, who had thus been elected and consecrated the Bishop of St. Andrews, outlived David I., by whose policy he had been placed, canonically, in his extensive see. His successors were either consecrated by the Pope's legate or by the Scottish bishops. On the death of Herbert, the Bishop of Glasgow, in 1164, Roger, the Archbishop of York, revived, indeed, the pretensions of his predecessors ; but Pope Alexander III., by an irrevocable bull, decided the metropolitan question in favour of the Scotican Church (*p*).

(*n*) Angl. Sacra, ii., 237. There is a declaration of David in Dug. Monast., iii., 146, which shows that he had, with the address of a statesman, obtained his present object by postponing the litigated question of right for the discussion of some future day. The prejudices of Sir James Dalrymple led him to transfer the power of *consecration* to the *Culdees*. Col., 236. While those monks formed *the chapter* of any diocese, they would necessarily possess, like other chapters, the right of *election*, but not of *consecration*.

(*o*) Hoveden, 651. Celestine moreover declared that the Pope or his legate *a latère* should alone enjoy the power of pronouncing against Scotland the sentence of excommunication or interdiction ; that no one should be capable of exercising the office of legate in that country except a Scottish subject, or a proper person who should be deputed by the apostolic see out of the sacred college ; and that no appeal concerning benefices should be ever carried out of Scotland, except to the court of Rome. Lord Hailes's An., i., 130.

(*p*) Keith's bishops, 138-9 ; Chart. of Glasgow.

The first national council of the Scottish clergy, whereof any distinct account remains, was assembled under David I. At Roxburgh it met, in 1126, with John of Cremona, the Pope's legate, at its head (*q*). Thurstin tried to revive in this assembly the ungracious question of his odious supremacy; but Honorius II. assumed to himself the decision of a point which he perceived would only embitter the proceedings of men who already felt for their independence. Honorius made no haste to decide the controversy by a bull which he saw might be disobeyed or eluded (*r*). Another council of the prelates and nobles of Scotland was assembled in 1138 at Carlisle by Alberic, the Pope's legate. During the perturbations of war the papal representative, says the prior of Hagustad, corrected, in a council of three days' endurance, whatever required correction (*s*). John, the Bishop of Glasgow, who had retired from the vexations of his episcopate to the quiet of his monastery in France, the legate obliged to resume his uneasy functions.

But it was David I. who refounded the Scotican Church. He either superseded or repressed the Culdee establishments, as we have already seen (*t*). He restored the bishoprics of Glasgow and Aberdeen; he formed the episcopates of Dunblane, Brechin, Dunkeld, Moray, Ross and Caithness (*u*). His munificence or his piety founded or strengthened many religious houses (*x*).

(*q*) Sim. Dunelm., 252; Wilkins's Concilia, i., 407.

(*r*) Lord Hailes's Councils, 2.

(*s*) Decem Script., 264.

(*t*) Book iii., c. viii.

(*u*) Id.

(*x*) In A.D. 1113, David settled Tyrone monks at Selkirk, and in 1128 he translated them to Kelso. He also founded in 1140 a monastery for the same monks at Lesmahagow. In 1128 he founded Holyrood-house for canons regular; and he established monasteries of the same order at Cambus-kenneth, at Jedburgh, and in the Isle of May. He was very bountiful to the Benedictine monastery which his father and mother had founded at Dunfermline, from whence in 1125 he transplanted a colony of Benedictine monks to Urquhart in Moray. In 1136 he richly endowed the abbey of Melrose for Cistercian monks from Rievalle in England, and he founded monasteries for the same order at Newbotle in 1140, at Kinloss in 1150, and at Mauchline in Ayrshire. David introduced the Bernardine or Cistercian nuns into Berwick, and he founded convents for the same order at Three Fountains in Lammermoor and at Gulane in East Lothian. He introduced into North-Britain the Knights Templars, who acquired establishments at Temple and at Balantradoch in Mid Lothian, at Oggerston in Stirlingshire, at Mary Culter on the Dee, at Aboyne and Tulloch in Aberdeenshire, at Inchinnan in Renfrewshire, at St. Germans in East Lothian, and other places. The Knights of St. John of Jerusalem also owed to David I. their establishment in North-Britain and their principal seat at Torphichen. During the reign of David other monastic establishments were formed in Scotland by his subjects. Fergus, the lord of Galloway, founded in that Gaelic country monasteries for Premonstratensian monks at Tungland, at Whithorn, at Saulseat; he settled at Dundrennan, in 1142, Cistercian monks from Rievalle in England; and he founded on St. Mary's Isle a monastery for Canons

The Church which that able prince found unformed he left complete by his various forms, and in this manner he called in the influences of religion to support the energies of his policy. His successor, James I. of Scotland, when he saw at the end of three centuries the magnificence of those religious houses and the extent of their domains, is said to have cried out "that "Saint David had been a sair saint to the crown." The experience of James did not enable him to reflect that it was not so much the profusion as the policy of his predecessor which had induced him to create so many bishoprics for the government of the clergy, and to found so many monasteries for the improvement of his people. Neither did the intelligent James perceive, when he envied the opulence of David, that the rapacity of courtiers would, meanwhile, have seized what the clergy had improved for their own benefit, indeed, but for the advantage of the nation.

The short reign of Malcolm IV. furnished few materials for ecclesiastical history. He naturally courted the Pope when he wished for a protector against Henry II. With this design he sent an embassy to Rome in 1159. Pope Alexander III., during his contest with the Emperor Frederic, willingly conciliated the favour of other princes; and he conferred the commodious office of papal legate in Scotland on William, the Bishop of Moray, who was one of Malcolm's ambassadors (*y*). This connection, however, did not long continue. The same Pope seems to have given to Roger, the Archbishop of York, a legatine authority over the Scottish Church. This new legate appears to have been ambitious of exerting his interested authority. In 1163 he summoned the Scottish clergy to meet him at Norham, under the penalty of suspension. They sent three deputies, not to submit to his power, but to remonstrate against his assumption, and an acrimonious altercation between the Archbishop and the Scottish deputies ended in a decisive appeal to Rome (*z*). Malcolm confirmed the right and enforced the payment of tithes; he con-

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regular. Hugh Moreville, the constable, founded at Dryburgh a monastery for Premonstratensian monks; and another at Kilwinning in 1140, for monks of Tyrone. Turgot de Rossedal founded a house for Canons regular upon the Esk, in Dumfriesshire, at the place which was named from them *Canonby*. The same Canons were settled at Restennot, in Forfarshire, at Pittenweem, in Fife, and at Blantyre, in Clydesdale. At Holywood, in Nithsdale, a monastery of Premonstratensian monks was established in David's reign. Cospatrick, the Earl of Dunbar, founded a monastery of Cistercian nuns at Coldstream, on the Tweed; and a convent for the same order was established at Elbotle, in East Lothian.

(*y*) Angl. Sacra, i. 161; Chron. Mail., 168.

(*z*) Lord Hailes An., i. 108.

ferred many lands and churches, and, imitating the policy of his grandfather, he founded several religious houses (*a*).

The misfortunes of William the Lion raised the glory of the Scotican Church. While the king and the nobles were obliged, by the captivity of William, to swear fealty to Henry II., the clergy would only consent that the English Church should have the authority over the Scottish, which, in right and justice, it ought to have. In this proceeding the address and firmness of the Scottish prelates are equally remarkable (*b*).

In 1176 the papal legate, Cardinal *Huguccio*, assembled a council at Northampton, wherein were present Henry II. and William the Lion. Six of the principal bishops of the Scottish Church attended the Scottish King. Henry required those prelates "to yield that obedience to the English Church which "they ought to yield." But though they were in the power of Henry and in the presence of the legate, they explicitly avowed their own sense of the late treaty, and boldly insisted "that they had never yielded subjection to the "English Church and ought not." Roger, the Archbishop of York, contended that the Bishops of Galloway and Glasgow had been anciently subject to his metropolitan see. Joceline, the Bishop of Glasgow, now insisted, with a retrospect to the bull of Alexander III. in 1164, that his see, being the peculiar daughter of Rome, was exempted from the jurisdiction of all other bishops and archbishops. Richard, the Archbishop of Canterbury, at length interposed. In contradiction to the Archbishop of York, with whom he was at variance, he claimed the Scottish prelates as his peculiar suffragans. This is the second occasion when such a competition of claims evinced that neither of the claimants had any pretence of right. Henry II. felt this observation, and he allowed the Scottish bishops to depart without enforcing their submission to the English Church (*c*).

The firmness of William and the spirit of his prelates appear to have obtained a similar triumph over the Pope. This victory was obtained in a contest

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(*a*) See the Chartularies. In 1156, Malcolm established at Manuel, near Linlithgow, a priory for nuns of the Cistercian order. In 1164, he planted a colony of monks of the same order at Coupar, in Angus, on the commodious site of a Roman station. In the same year he founded a hospital at Soltra, which, from its situation and revenues, became one of the most considerable establishments of this kind in North-Britain. During the reign of Malcolm, Walter, the son of Alan, the Stewart, established at Paisley a monastery of Cluniac monks, who were brought from Wenlock, in Shropshire. Cospatric, the Earl of Dunbar, founded at Eccles, in 1154, a convent for nuns of the Cistercian order; and Uchtred, the son of Fergus, the Lord of Galloway, established at Lincluden a convent of black nuns of the order of St. Benedict.

(*b*) Rym. Fœd., i. 399; Hoveden, 550.

(*c*) Hoveden, 550; Keith's Bishops, 139.

about the choice of a successor to Richard, the Bishop of St. Andrews, in 1178. The chapter chose the erudite John Scot; the king nominated Hugh, his own chaplain; and when he heard of the election of the former he swore, "By the arm of St. James, that while he lived John Scot should not be Bishop "of St. Andrews." Roger, the Archbishop of York, who was armed with legatine authority, excommunicated the Scottish king, and interdicted his kingdom. The Pope supported the Archbishop; yet William continued inflexible. The legate now excommunicated Richard Moreville, the Constable, and Richard de Prebenda, the Secretary, who were considered as the king's advisers; but William encountered such fulminations by banishing all who yielded obedience to his opponents. Meanwhile the Pope and the Archbishop died. The Scottish king immediately sent Ambassadors to Rome. Lucius, the successor of Alexander III., reversed the excommunication, and recalled the interdict. The competition for the see of St. Andrews was ended at length by compromise. The two prelates resigned their pretensions, and William allowed the Pope to nominate Hugh to St. Andrews, and John to Dunkeld. As a mark of sincere reconcilement, Lucius sent to the Scottish king *the golden rose*, with his paternal benediction (*d*).

Five other ecclesiastical councils held their obscure sittings during the long reign of William. One at Edinburgh, in 1177, under the legate Tomasi; another in the church of Holycross, near the same city, in 1180; a third under John de Salerno, at Perth, in 1201 (*e*); a fourth at the same town, in 1206; and a fifth was called at Perth by William, the Bishop of St. Andrews, and Walter, the Bishop of Glasgow, the Pope's legates, "by the king's warrant, "as is the custom." These councils were probably all, like the last, composed of clergy and nobles; but as their transactions were dark and ineffective, they do not supply many events for narrative, nor furnish much matter for reflection (*f*).

(*d*) Hoveden, 599; Fordun, l. vi. 35-36; Chron. Mail. 174-5.

(*e*) John, the cardinal legate, issued a precept to the Scottish bishops, directing them to visit the several churches, which the monks of Kelso enjoyed to their proper use, according to the rule of the Lateran council. Chart. Kelso, 444. The bishops of St. Andrews and Glasgow had already agreed with the abbot of Kelso, that he should present vicars to the several churches which belonged to the monastery of Kelso, in their respective dioceses, and this agreement was confirmed by the cardinal John at the council of Perth, in 1201. Ib. 424.

(*f*) One of the canons, which was made at Perth in 1201, prohibiting all secular employments from Saturday at noon till Monday morning, is said by Boece to have been ratified by the estates. Lord Hailes's Councils, 7. The proceedings of a Provincial Council, which was held at Perth, in 1242, was also ratified by the estates. Fordun, as well as Boece, asserts this position.

In the meantime there assembled other ecclesiastical councils of a less general nature during that religious period. The Scottish Bishops called Synods of their clergy, within their several dioceses, for establishing diocesan rules (*g*). Robert, the Bishop of St. Andrews, called a Synod at Berwick in A.D. 1150 (*h*). The Bishops of Glasgow followed his example in 1220 (*i*). The attendance at such Synods by the Abbots was soon deemed a burden, from which they studiously sought exemptions (*k*).

The Abbots had gradually acquired other exemptions of greater inconvenience to the nation. They had generally obtained the privilege of sanctuary (*l*). Abuses soon crept in, which were at length felt, and in 1212, A.D., William made a vigorous attempt to correct them, though he was opposed by Innocent

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Ib. 15. Thus early seems to have begun the useful practice of calling in the assent of the king, and the estates, to energize the councils of the Scotican church. Innes, a Roman Catholic priest, but a fair inquirer after truth, appears to have gone over the parliamentary record, in order to prove how often the bulls of the Pope, and the canons of the Scotican councils, had been ratified by the king, with the assent of the estates. Innes's MS. Coll. in my library. It is important to remark that Innes, who made his researches from 1725 to 1735, found in the Parliamentary Record, several proceedings which are not to be seen in Robertson's Parl, volume, so that this record seems to have received considerable injury in the intermediate period.

(*g*) "The ancient episcopal synods, which were held once a year, about Easter, were composed "of the Bishop as President, the Dean cathedral as representative of that collegiate body, the "Archdeacons, as at first only deputies or proctors of that inferior order of deacons, and the "Urban or rural Deans, who represented all the parochial priests within their division." Kennet's Par. Antiq. Glos. in vo. Synodi. The episcopal synods in Scotland were more numerously attended by the clergy.

(*h*) Chart. of Coldingham. (*i*) Chart. of Glasgow.

(*k*) William Lamberton, the Bishop of St. Andrews, liberated in 1293, the Abbot of Dryburgh, from the synodal meetings of Haddington; and, if for urgent affairs they should come there, in that case he gave them a pension of four marks to be paid them by the hands of the Dean of Haddington. Chart. Dryburgh.

(*l*) Exclusive of the general sanctuary, which every church in some measure possessed, several churches and religious houses, had particular sanctuaries by special grants of the Scottish kings. In 1144, David I. granted to the monks of Lesmahagow, that all persons who were in danger of the loss of life or limb, and who should flee to their cell for refuge, or should come within the *four crosses*, should be entitled to his peace, in honour of God and St. Michael. Chart. Kelso, 8. Malcolm IV. granted to the church of Inverleithan, in Tweeddale, wherein the body of his son had rested the first night after his death, such sanctuary within its territory, as Wedale [Stow,] or Tyningham enjoyed. Ib. 20. The hospital of Soltre possessed a privileged sanctuary, to which a road from the south led up; and which is still known by the name of the *Girth*-gate. Chart. Soltre, and the tradition of the country.

III., who only felt for his own religious order (*m*). The abbots and monks obtained other honours, privileges, and exemptions (*n*).

Meantime William the Lion made, as well as confirmed, many grants to ecclesiastical establishments; he enforced the payment of tithes, but he does not appear to have founded religious houses, if we except a convent of red friars in Aberdeen, and the monastery of Aberbrothock for Tyrone monks, which he dedicated to Becket in 1178, with a hostile recollection, perhaps, of the invariable enmity of Henry II. (*o*).

Alexander II. had scarcely ascended the throne of his father, when engaging in warfare with John in support of the barons, he incurred the indignation of

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(*m*) Lord Hailes's An. i. 140. Innocent addressed a bull to William, confirming the privileges of the Scottish church. 1. That there should be no interdict or excommunication promulgated over the Scottish people, unless by his holiness or legate, in Scotland. 2. That no controversies should be drawn out of Scotland, except to Rome. 3. All former privileges belonging to the Scottish church were confirmed. The only bishoprics which were then known to the Pope in Scotland, were St. Andrews, Glasgow, Dunkeld, Dunblane, Brechin, Aberdeen, Moray, Ross, and Caithness. Chart. Glasgow. The bishop of Candida Casa was at that time supposed to be a suffragan of the see of York, and the bishoprics of Argyle and Edinburgh were not founded till after the effluxion of many years.

(*n*) In 1253, Innocent issued a bull in favour of the abbot and monks of Balmerino, "ne trahantur ad synodos vel ad conventus forinsecus." Chart. Balmer. 60. In 1220, Walter, the Bishop of Glasgow, exempted the abbot and monks of Paisley, "a procurationibus et synodalibus." Chart. Pasl. 361. In 1303, Benedict granted a bull to John, the abbot of Paisley, that he and his successors might wear a *mitre*, a *ring*, "et aliis pontificalibus." Ib. 141. In 1315, the same Pope granted to Patrick, the abbot of Cambuskenneth, the same pontifical privileges, with the power of giving benediction to the people. Chart. Cambusk., 36. Under David I. Robert, the Bishop of St. Andrews, empowered the abbots of Kelso, to receive ordination with its usual ceremonies from any bishop that they might think proper. Chart. Kelso, 4. The monks enjoyed more substantial exemptions. In 1207, Innocent issued a bull, commanding that none should exact tithes from the lands of the monks of Newbotle. Chart. Newbotle, 247. This was afterwards extended to the tithes of animals and fruit. Ib. 265. Lucius, who ruled the universal church from 1181 to 1185, gave a similar exemption from the paying of tithes to the monks of Melrose, Chart. Mel., 168; and the monks of other houses enjoyed the same exemptions, as we may learn from the Chartularies.

(*o*) Fordun, lib. viii. c. 25; Chart. of Aberbrothock. In the same year, 1178, his brother David, the Earl of Huntingdon, founded a monastery for Tyrone monks, at Lindores; and in 1179, Fergus. the Earl of Buchan, planted Tyrone monks at Fyvie, in Aberdeenshire. The Countess Ada, the mother of King William, settled in 1178, a convent of Cistercian nuns, at Haddington; and the Countess of Dunbar established a convent of Cistercian nuns, at St. Bothan's, in Lammermoor. Roland, the lord of Galloway, founded in 1190, a monastery for Cistercian monks, at Glenluce; and Reginald, the son of Somerled, planted a colony of Cistercian monks at Saddell, in Kintyre. Gilbert, the Earl of Strathern, founded in 1200, a monastery for Canons regular, at Inchaffray; and Gilchrist, the Earl of Marr, built a priory for Canons regular, at Monymusk, where they supplanted the Celtic Culdees.

the Pope. As John had left his kingdom under the papal protection, Honorius considered England as his own. Owing to this cause Gualo, his legate, excommunicated the people of Scotland in 1216 A.D., as the enemies of his adopted land. They did not much regard this fulmination, as they deemed it the effect of interest more than the dictate of religion (*p*). A peace was soon after concluded with Henry III., and Alexander was thereupon absolved from the embarrassment of papal censures.

But his people were not freed from the odious rapacity of Gualo, the papal legate, in the scandalous sale of individual absolutions. The Scottish clergy sent three bishops to Rome as deputies to represent this oppression, and to solicit redress. Honorious not only removed the grievance, but confirmed the privileges of the Scottish Church, owing to his affected respect for Alexander, who had manfully withstood the papal power (*q*).

A general council of the Scottish Church was called at Perth in 1221 by the papal legate, in order to obtain aids for the holy war. Another papal agent in the meantime journeyed through the country, soliciting under that imposing pretence money, which he spent as profusely as he had obtained it assiduously. A third legate arrived in Scotland during the subsequent year for a similar solicitation, but not with the same success. A bishop, whose name has not been proclaimed by fame, moved in the assembly of the Estates what obtained their assent and the king's approbation, that neither this nor any other legate should thereafter be admitted into the kingdom. Honorius felt what he was unable to suppress, and he found it necessary to issue a Bull in 1225, to enable the Scottish prelates to hold a provincial council without the mandate of a legate or the summons of a metropolitan (*r*). The Scottish clergy explained the doubtful tenor of this papal act in favour of their own powers; and under the sanction of that Bull they called ecclesiastical councils, without the Pope's consent or knowledge (*s*). They soon after exercised the important privilege which they had thus artfully obtained. They held a council wherein, among other canons, they ordained that every parish priest should be entitled to pasture his cattle over his whole parish (*t*).

After various attempts and repulses by the Scottish king, Otho, the Pope's legate, held a council of the Scottish clergy at Edinburgh in 1239. Their

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(*p*) Chron. Mail., 192; Fordun, lib. ix., c. 31.

(*q*) Fordun, l. ix. c. 32-3; Rym. Fœd., i. 227.

(*r*) Chart. Moray, L. Hailes's Councils, p. 11.

(*s*) Lord Hailes's An., i. 149.

(*t*) L. Hailes's Councils, p. 12, which quotes the Chart. of Moray, fol. 11. But the Chartulary does not inform us, whether this agricultural canon was ratified by the parliament.

proceedings are unknown. It is only certain that Otho after diligently collecting money withdrew secretly into England.

Gregory IX. was perfectly informed both of the resolution and the power of Alexander II. to oppose the entrance of a legate into Scotland, as he was strengthened by the concurrence of his prelates and the voice of the country; and that haughty pontiff condescended to sooth his obstinacy, and to conciliate his compliance without gaining the interested object of a profligate court (*u*).

In the absence of a legate, David, the Bishop of St. Andrews, called a provincial council at Perth in 1242. In it were passed many canons, which as they were ratified by the estates, and confirmed by the king, continued to be the ecclesiastical law of Scotland till the recent epoch of the Reformation (*x*). The Scottish Church gained another privilege from the complacency or the prudence of the Pope. Innocent IV. issued a bull in 1245, directing "that the "papal delegates, for trying ecclesiastical causes, should hold their sittings "either within Scotland or within the dioceses of Carlisle or Durham; but not "within the diocese of York." The Archbishop had recently revived some of the ancient pretensions of his see which, at a moment of conciliation, it was deemed prudent to extinguish for ever.

During a reign, which reflected glory on the king, and brought advantage to his kingdom, Alexander established the independence of his Church, without adding much to her opulence. Pitying the poverty of the bishopric of Argyle, which had been founded about the year 1200, he endowed that episcopate with churches and lands by several grants (*y*). He, however, founded no fewer than nine monasteries of Dominican friars. Every succeeding age seems to have had its own fashion of monkery. David and his two grandsons had established in several districts of the country monks of various kinds. Alexander II. at length settled Dominican or black friars in the towns; and he was imitated like his predecessors by the nobles (*z*).

(*u*) Lord Hailes's Councils, p. 14—15.

(*x*) Id. Those *canons* were published in 1769, by the late Lord Hailes, from the Chartulary of Aberdeen, with learned notes. They had been, indeed, previously published by Wilkins, in his *Concilia*, i. 607.

(*y*) There are two Charters of Alexander II. in the MS. Monast. Scotiæ, which lies in my library, the last whereof was dated the 8th July, 1249, at Kerrera, where he died soon after.

(*z*) The Dominicans or Black Friars were introduced by Alexander II., who established monasteries for them at Edinburgh, at Berwick, at Ayr, at Montrose, and at Aberdeen, in 1230, at Perth in 1231, at Elgin, at Stirling and at Inverness in 1233. A monastery of the same friars was established at Cupar, by Malcolm, the Earl of Fife, who also founded in 1216 a convent of Cistercian nuns at North-Berwick; and the same earl established at Culross in 1217

The coronation of Alexander III. had scarcely been performed by the bishop, who knighted the king, when an ecclesiastical council was convoked at Edinburgh (*a*). It was called by David, the Bishop of St. Andrews, and it was composed of the clergy and nobles. By the concurrence of both an ordinance was passed declaring that the church and her prelates should enjoy their rights and liberties, as they had possessed them during the late reign, saving the royal authority. Those liberties, however, were invaded, and the rights of the Prior of St. Andrews were particularly attacked. The bishops were thus induced to present a remonstrance to the king, claiming their late asserted liberties (*b*); and in 1251, Innocent IV. interposed by a bull in favour of the Scottish Church, whose complaints of oppression had moved him to furnish a remedy (*c*). During the king's minority Scotland was governed by a faction which it was not easy to restrain or abash.

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a monastery of Cistercian monks. In 1218, William Cumyn, the Earl of Buchan, planted a colony of Cistercians at Deer; and in 1229, Ermengard, the widow of King William, founded a monastery of Cistercians at Balmerino in Fife. Alexander II. also introduced the monks of Vallis Caulium, whom he established at Pluscardyn, in Moray, in 1230. In the same year, John Bisset founded the monastery of Beauly for this new order, a colony of whom was also planted at Ardchattan in Argyle. In 1218, Patrick, the Earl of Dunbar, founded at Dunbar a convent of Red Friars. In 1226, a colony of the same Friars was planted at Houston in Renfrewshire; and William Malvoisin, the Bishop of St. Andrews, who died in 1233, founded the monastery of Scotland-well for the same order. In 1244, Duncan, the Earl of Carrick, established a monastery of Cluniac monks at Crossraguel. During the reign of Alexander II. a monastery of Premonstratensian monks was established at Fearn, in Ross, by Ferchard, the Earl of Ross. Walter the Stewart, planted at Dalmullin in Ayrshire, a colony of Gilbertine monks, who were brought from Sixile in Yorkshire; and he settled at the same place a body of Benedictine nuns. Convents of Franciscan Friars were established at Berwick, at Roxburgh, and other places during this reign.

(*a*) This council, which was attended with important consequences, escaped the acute diligence of Lord Hailes. See his Councils, p. 15—16; and his Annals, i. 162—3.

(*b*) There is a copy of that curious and unedited remonstrance, among the *Charta Antiqua,* in the Advocates' library. On the other hand, there was a bull of Alexander IV. which he addressed to the bishops of Scotland, "ne prælati perturbent libertates et jura domini regis." Rym. Fœd., ii. 215.

(*c*) This bull was for the first time published by Lord Hailes in the Appendix to his Annals, vol. i. No. IV. "Impartial posterity," says he, "will judge whether this declamation, [the grievances "mentioned in the bull] was selfish or patriotic." The remonstrance of the Scottish bishops, which may be considered as an useful supplement to the bull, will enable posterity to form a proper judgement of the parties and their principles. David, the bishop of St. Andrews, who was at the head of those remonstrants, died in 1253, a date which fixes the epoch of the transaction to some year between 1253 and 1249, when Alexander III. ascended the throne.

Innocent, in return for his protection, granted in 1254 A.D. a twentieth of the ecclesiastical revenues of Scotland to the King of England during three years, for the aid of the Holy Land; and he renewed the same grant for another year in 1255 (*d*). Mistaken piety thus furnished during many years a pretence for obdurate avarice to amass or to squander wealth by the oppression of indigence.

In the progress of papal usurpation the court of Rome proceeded from appropriating the revenues of the Scottish Church to the appointment of the Scottish bishops. In 1256 the Pope supported the factious bishops of St. Andrews and Glasgow against the king (*e*). In 1259 the Pope appointed in the room of William the bishop of Glasgow, John de Cheyam, his own chaplain, to that opulent see. In the appointment of Alexander IV. and the recommendation of Henry III., the Scottish king acquiesced, because his opposition would have been dangerous to his distracted kingdom. The Pope, as he was satisfied with apparent acquiescence, recalled the angry mandates which he had issued against the Scottish nation (*f*).

While the king and the clergy were at variance about their several pretensions, Otto, the papal legate in England, required of each cathedral in Scotland six marks, and four for each parish church, on the pretence of defraying the expenses of his visitation. Alexander III. forbade the contribution, and appealed to Rome against the legate. The clergy gave the king two thousand marks to defray the expenses of a law suit which so nearly concerned their temporal interests (*g*).

The legate felt the repulse of the Scottish clergy, and tried to avenge it. In 1268 he summoned the Scottish bishops to attend him in England, at whatever place he should think proper to convene a council. He required the heads of the religious houses to send to the same council fit procurators. Each of those orders sent two proper persons, not to concur in the deliberations of the council, but to watch the conduct of Ottobon (*h*). This great council was held at Saint Paul's in London, with the consent of Henry III., in May, 1268. For the regulation of the churches and clergy of England, Scotland, and Ireland, Ottobon published several constitutions, which he addressed to Scotland, to Ireland, and to Wales (*i*). But the Scottish clergy, feeling their own strength, refused their obedience to the canons which they had not approved.

(*d*) Rym. Fœd., i. 517; L. Hailes's An., i. 164.

(*e*) L. Hailes's An., i 169-70.

(*f*) Keith's Bishops, 142; Chron. Mel., 222; Rym. Fœd., i. 683-98-703.

(*g*) Fordun, l. x., c. 21-3. L. Hailes's An., i. 178-9.

(*h*) Fordun, l. x., c. 24.

(*i*) Prynne's Col., ii. 1040.

The Pope, however, and his legates were not to be easily repulsed; and in 1268, Clement IV. required the Scottish clergy to pay a tenth of their benefices to the King of England as a hallowed aid for an intended crusade. Alexander III. concurred with his ecclesiastics in rejecting this odious requisition. They said that Scotland herself would equip an adequate body of crusaders. Several of the Scottish nobles who departed for the Holy Land never returned to their native soil. Henry III., however, attempted to collect the tenths which Clement IV. had granted to him, without a proper motive (*e*). The clergy appealed to Rome against the collection of a tax which had been imposed by incompetent authority.

The Scotican Church, willing perhaps to show her independence, assembled in a general council at Perth, in 1269. A bishop of their own called this council, and presided in its meetings; and at this assembly they enacted a body of canons, which remained the ecclesiastical code of Scotland till the recent epoch of the Reformation (*f*). Such councils continued to assemble from time to time for correcting clerical abuses, and maintaining the freedom of the Scotican Church, till that epoch saw new jurisdictions arise from an ardour of reform.

The year 1275 is a remarkable era in the Scottish state. An ecclesiastic who is called Bagimont in the history and in the law of Scotland, but whose real name was Bayamond, came from the Pope to collect the tenth of all the benefices in North-Britain for the relief of the Holy Land (*g*). He held an ecclesiastical council at Perth, and the whole clergy, except the Cistercians, who enjoyed their exemptions, agreed to pay the tenth of their benefices upon oath and under the terrors of excommunication. The *auld taxation of Bagimont* is often referred to by the Scottish statutes as an adequate measure of the true value of ecclesiastical benefices (*h*). In that age the clergy felt the oppression of paying truly one-tenth of their real incomes, and they induced Bayamond

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(*e*) Fordun, l. x. c. 26; Chron. Melrose.

(*f*) Wilk. Concilia, i. 607-8; Lord Hailes's Councils, 16. Among a great variety of salutary regulations, the first canon required that a council should be annually held in conformity to the before-mentioned bull of Honorius III., in 1225. The second canon appointed that each of the bishops should, in rotation, be the *Conservator Statutorum*, for enforcing obedience to the canons by ecclesiastical censures.

(*g*) Hearne's Fordun, iii. 780; Prynne, iii. 547; Calendar of Ancient Charters, 336.

(*h*) Ja. III., Par. vi., c. 44; Ja. III., Parl. iv., c. 39. Yet, Skene, who published those statutes, supposes that the *auld taxation of Bagimont* was coeval with James III.! Cowel confounds *Bagimont's* roll with *Ragman's* roll, and Bishop Nicolson was misled by Cowel into the same mistake, Scots Hist. Lib., p. 183-5. The copy of Bagimont's roll, which is in Bisset's MS. *Rollment of Courts,* cannot be considered as older than the reign of James V., wherein it was found.

to repair to Rome in order to solicit some abatement of that burdensome imposition. But Bayamond, without making any impression upon the accustomed avarice of the Papal court, returned into Scotland, where he could not collect the tax, but found a grave (*i*). What made so great an impression in those times must be an interesting object in the present, and I subjoin an abstract of the only copy of *Bagimont's Roll* which, perhaps, remains either to gratify curiosity or to promote knowledge (*k*).

The bad success of Bagimont's taxation of the year 1275, did not discourage Edward I. from soliciting, nor Martin IV. from granting the tithes which were collected in Scotland for the relief of the Holy Land. Yet was

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(*i*) In September 1292, Edward I. wrote the Bishops of Scotland, desiring that they would aid the Pope's agent in collecting the arrears of Bayamond's tax. The king afterwards wrote the Bishops of St. Andrews and Glasgow, to favour the Pope's agent Giffred de Vezano, who was sent to account with the executors of Bayamond. Prynne, iii. 547.

(*k*) The following abstract was taken from the manuscript *Rollment of Courts* of Abacuk Bisset, who had been secretary to Sir John Skene, the publisher of the ancient laws of Scotland, and who considered his copy of *Bagimont's Roll* as the only one which even then [1600] remained in any Scottish register. It was found, says Bisset, by "Dene John Christieson, the principal of the Car-"melite order at Aberdene," and copied by "ane chaplane of Auld Aberdene, called Doctor Rouse." The doctor was not a very accurate arithmetician or scribe, and I have, therefore, rectified his additions, given the sums in Arabic cyphers, and corrected his spellings of the names of places. The index of the MS. in the Harleian Library would lead us to expect a copy of *Bagimont's Roll*, in that fine collection of national muniments; but the document which is referred to is merely an account of episcopal benefices in Scotland at the Reformation.

An Abstract of Bagimont's Roll, as it stood under James V.

		£.	s.	d.
Candida Casa Diocesis	Sum'a decimarum in eccl'iam et extra eccl'iam candida casa	146	6	8
Glasguen' Diocesis	Sum'a Capituli Glasguen' cum ecclesijs com'unibus Glasguen' Diocesis	479	13	8
	Sum'a decimarum, extra ecclesiam Glasguen' in decanatu de Peblis	78	13	4
	Sum'a decimarum decanatus Tevedaliæ	66	13	4
	Sum'a decimarum decanatu de Nyth	133	6	8
	Sum'a decimarum decanatus Annandie	34	13	4
	Sum'a decimarum decanatus de Ruglyn	90	13	4
	Sum'a decimarum decanatus de Lennox	40	13	4
	Sum'a decimarum decanatus de Lanerk	90	0	0
	Sum'a decimarum decanatus de Kyle et Cuningham	53	6	8
	Sum'a decimarum decanatus de Carrik	26	0	0
	Sum'a totalis decimarum Glasguen' Diocesis	1,093	13	8

the grant conferred on such conditions as made it nugatory: it was thereby required that Edward should himself assume the cross, that he should obtain

		£	s.	d.
Sti Andræ Diocesis	Sum'a decanatus de Fyfe	225	6	8
	Sum'a decanatus de Fotherick	38	0	0
	Sum'a decanatus de Gowrie	64	13	4
	Sum'a decanatus de Angusiæ	115	6	8
	Sum'a decanatus de Mernis	86	6	8
	Sum'a decanatus de Lynlythquhow	193	13	4
	Sum'a decanatus de Hadington	168	13	4
	Sum'a decanatus de Merse	53	13	4
	Sum'a decimarum beneficiorum Sti Andreæ Diocesis	945	13	4
Dunkelden' Diocesis	Sum'a decimarum cap'li cum eccl'is om'bus Dunkelden'	160	6	8
	Sum'a decimarum beneficiorum extra eccl'iam Dunkelden'	57	6	8
	Sm'a totalis decimarum beneficiorum Dunkelden' eccl'is et Diocesis	217	10	4
Dumblanen' Diocesis	Sum'a decimarum infra, et extra, eccl'iam Dumblanen'	84	13	4
Brechinen' Diocesis	Sum'a decimarum capituli Brechinen'	72	0	0
	Sum'a decimarum extra eccl'iam Brechinen'	30	13	4
	Sum'a totalis decimarum Brechinen' Diocesis	102	13	4
Abirdonen' Diocesis	Sum'a decimarum cap'li Abirdonen cum ecclesijs om'bus	295	6	8
	Sum'a decimarum extra eccl'iam Abirdonen'	56	6	8
	Sum'a totalis decimarum Abirdonensis Diocesis	351	13	4
Moravien' Diocesis	Sum'a decimarum cap'li Moravien'	171	13	4
	Sum'a decimarum Moravien' Diocesis beneficiorum extra eccl'iam	21	13	4
	Sum'a totalis decimarum Moravien' Diocesis	193	6	8
Rossen' Diocesis	Sum'a cap'li cum prepositura de Tayne in Diocesis Rossen'	100	13	4
Cathanen' Diocesis	Sum'a decimarum Cathanen' Diocesis	32	0	0
Lismoren' Diocesis	Sum'a totalis decimarum Lismoren' vel Argadie	50	13	4
Orchaden' Diocesis	Orchaden' Diocesis Archidecanatus Zetlandie	5	6	8
	Sum'a totalis decimarum beneficiorum prescript omnium diocesiorum	3,324	7	0

the consent of the Scottish king, that he should from this fund supply the Scottish crusaders (*l*).

During the year 1280 the Bishop of Moray addressed a letter to the "Bishops, Abbots, Priors, Deans, Archdeacons, and other Prelates of the "church," requiring them to assemble in a council at Perth. The enumeration of this precept points to the ecclesiastical persons that were usually summoned to provincial councils in those times (*m*). It is, however, certain that the Scotican Church, owing to her own struggles, to the enactments of her councils, to the progress of society in that age, had arrived at complete maturity before the unhappy demise of Alexander III. The marriage contract of Margaret, *the maiden of Norway*, with the heir of the crown of England, is a full proof of that broad position (*n*). In addition to the several houses of different monks which former kings had erected, there were some other establishments settled under Alexander III. (*o*).

We have seen the amount of the tenths which the several bishoprics and deanries in Scotland during that age produced. We see still more distinctly the relative value of the several bishoprics and deanries during the same

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(*l*) Rym. Fœd., ii. 274. A synod which was held at Perth in 1411, ratified Bagimont's tax so far as to declare that all benefices above 40 l. Scots, a year, should pay a certain sum to the Pope for his annats and bulls; and as much to the king when necessity should call for it, and he himself should think fit. Malcolm's MS. Coll., 455.

(*m*) L. Hailes's Councils, p. 20.

(*n*) By that contract, it was expressly declared on the part of the king of England, that the Scottish Church should enjoy all her rights, laws, liberties, and customs; that the chapters of cathedral, collegiate, or conventual churches, having the right of election, should not be obliged to go out of Scotland to ask for leave to elect; for presenting the persons elected; or for swearing fealty to their liege Lord. Rym. Fœd., ii. 482-3.

(*o*) During the reign of Alexander III., the Celtic Culdees were supplanted by canons regular at Abernethy and at Portmoak. Dervorgille, the Lady of Galloway, founded for Cistercian monks the monastery of Sweetheart in East Galloway; but the monastic establishments of this reign were chiefly convents of Friars. In 1250, the Red Friars were established at Scotland-Well by David, the Bishop of St. Andrews. In 1252, they were planted at Failford in Ayrshire. In 1257, Alexander III. founded a monastery for the Red Friars at Peebles, and in 1271 this order was established at Dornoch in Sutherland. In 1267, the Lady Dervorgille founded a convent for Dominican Friars at Wigton. In 1270, the Bishop of Glasgow established the same order in that city, and they were planted at St. Andrews in 1274, by William Wishart, the Bishop. The Franciscan Friars were established at Dumfries and at Dundee, by the munificence of the Lady Dervorgille. In 1262, a monastery of Carmelite Friars was founded at Tullilum near Perth, and in 1263, Patrick the Earl of Dunbar established a convent of Carmelites at Dunbar. There was founded in Scotland, during the Scoto-Saxon period, other religious establishments, the chronology whereof cannot easily be settled.

period. The average income of each rectory was ten pounds sterling a year, and of each vicarage ten marks (*p*).

During the reign of Alexander III. the revenue of the Church gradually rose to its greatest height. An extent which was taken during his administration shows the amount of every bishopric; a similar extent, which was settled by Parliament during the reign of David II., exhibits the amount of each at that period, after a long and wasteful war had ruined a wretched country; and a record, which was long preserved in the Paper Office and is now deposited in the Register House at Edinburgh, has happily transmitted the relative values of the several bishoprics as they were fairly estimated both before the war of the succession began and after it concluded. This comparative statement may be seen in the interesting note below (*q*).

The great fund from which those incomes were paid was the tithes. These had been probably collected in Scotland as early as the beginning of the

(*p*) L. Hailes's An., i. 202, 307-8-11; Chart. of Cambuskeneth.

		The Ancient Taxatio.			The New Taxatio.		
		£	s.	d.	£	s.	d.
(*q*) Candida Casa - - - - - -		368	15	6	143	1	8
Glasgow. The old Taxatio was - -	£4,080 12 2						
But as several churches in Teviotdale, Eskdale, and Annandale, were under the jurisdiction of England at the epoch of the New Taxatio, the valuation of these must be deducted -	741 12 2	3,339	0	0	2,028	10	6
Saint Andrews - - - - - -		5,340	13	4	3,627	0	0
As the Trinity Church in Berwick, and several churches in the Merse, were under the jurisdiction of England at the epoch of the New Taxation, their value is deducted from the total amount of the ancient Taxatio.							
Dunkeld - - - - - - -		1,206	5	8	602	13	4
Dunblane - - - - - - -		607	13	4	407	12	8
Brechin - - - - - - -		441	3	4	321	16	8
Aberdeen - - - - - - -		1,492	4	4	1,358	17	8
Moray - - - - - - -		1,418	11	0	559	8	8
Ross - - - - - - - -		320	7	11	246	12	0
Caithness - - - - - - -		286	14	10	86	6	8
Argyle - - - - - - -		281	6	8	133	6	8
		15,102	15	11	9,515	6	6

tenth century. Before the reign of William the Lion the right of tithes was extended to almost every thing which the land or water produced; to the fruits of the garden and the fish of the sea (*r*). The parochial clergy were entitled, moreover, to oblations and other ecclesiastical dues. The religious houses were supported by many lands, by farms, by salt-works, and by traffic: they possessed the advowsons of many churches, and enjoyed exemptions from many burdens (*s*).

The right of patronage appears to have been exerted during that age in North-Britain, as it has always existed in England. The king nominated the Bishops, who were elected by their chapters, and consecrated by the Pope or by the Bishops. The king appointed the rural Deans, whereof there were nine in the diocese of Glasgow, eight in the episcopate of St. Andrews, and the same proportion in the other bishoprics, according to their size and opulence (*t*). The Chancellor of Scotland exercised the king's right of presentation to the smaller benefices (*u*). The Barons enjoyed the right of presentation to those benefices which had arisen from their own munificence, or the piety of their progenitors. The Bishops and Abbots had acquired from charters of the Kings, or grants of the Barons, the right of advowson over many churches. From this right other privileges of great importance were deduced. This

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(*r*) Lord Hailes's Canons of the Church of Scotland, p. 20-1; Lord Hailes's An., i. 307-8. The chart. of the Isle of May shows that tithes were exigible by the monks there, of the fishers around that isle, as early as the reign of Malcolm IV. The millers and the merchants were not exempted. L. Hailes's Canons, 22.

(*s*) See the Chartularies. The abbot and monks of Kelso engaged to Walter, the Bishop of Glasgow, who governed from 1208, to present proper clerks and chaplains to the vicarages and churches which the monks held to their proper use. Chart. Kelso, 419. Gamelin, the Bishop of St. Andrews, [1255 to 1271] granted to the monks of Kelso a permission that the churches of Gordon and Home, which they held to their proper use, should be served by proper clerks, who might be answerable to him and his successors. Ib., 426. David, the Bishop of St. Andrews, granted to the monks of Kelso the church of Simprin, on a similar condition of finding a proper clerk. Ib. 429. The same bishop granted a similar permission touching the chapel of Wederley, which the same monks held to their proper use. Ib., 452.

(*t*) Wilkins's Concilia, iv. 206. David Cuningham, the Dean of Ruglen, went in 1489 to visit the monastery of Paisley, but the abbot claiming an exemption from visitations, declined his jurisdiction. Chart. of Paisley, 357. Other monasteries claimed similar exemptions.

(*u*) William de Bevercotes, the Chancellor of Scotland, in 1309 presented a petition to the king in Parliament, praying that he might have the gift of all the king's churches, *as former Chancellors used to have.* This prayer was granted for those benefices which did not exceed *ten* pounds per annum. Ryley's Placita, 613-14; and see Prynne, iii. 667, on this head.

inference gave rise to the claims of *a mother church* (*x*). The clergy obtained in that age a thousand exemptions: their property and their persons were exempted in a great measure from temporal jurisdictions. The Bishops of St. Andrews and Glasgow, who were so superior in opulence to all other Bishops, and, perhaps, to most of the Scottish Earls, and who acted such conspicuous characters in the sad tragedy of the ambitious aims of Edward I., owed the preservation of their lives to the sacredness of their persons. That enraged monarch would have offered their heads as a sacrifice to his vengeance, if he had not feared the Pope's resentment (*y*).

If the Scottish Church had its faults during the Scoto-Saxon period, it also had its merits. It spread civility throughout a barbarous land. It furnished statesmen for the conduct of affairs while the nobles were little instructed in the arts of government. The national rights could not have been discussed, nor could the national independence have been maintained, without the zealous support of the Church. When warfare pressed upon their country, the prelates put on the cuirass with their cassocks. In the lengthened conflict for the succession to the crown and the liberties of the nation, their property was wasted and their persons were imprisoned. The epistle which in a subsequent period the Bishops wrote in concurrence with the Barons, assuring the Pope that they would not submit to Edward of England while one of them remained, left an energy to be admired, and furnished an example to be followed.

(*x*) Whitaker's Manchester, ii. 432: and hence arose a vast traffic between the abbots and the barons as to the erection of chapels in the baronial courts. The abbot granted the power to erect a chapel; but in return for this indulgence, he generally obtained some land, or some pasturage, or other valuable consideration. The chartularies are full of this sanctimonious sort of temporal trade.

(*y*) The king having *close imprisoned in irons* Lamberton and Wishart, the Bishops of St. Andrews and Glasgow, saith Prynne, wrote the Pope on the 4th of October, 1306, to appoint William Cumyn, the brother of the Earl of Buchan, to succeed to the former, and Galfrid de Moubray to succeed the latter. The epistle is in Prynne, iii. 1156; and see the curious articles which were exhibited by Edward against Bishop Wishart, in that very rare tract *the second letter of Rymer to Bishop Nicolson.* On the 6th of March, 1307, Edward I. hearing that the Bishop of Moray, who adhered to Robert Bruce, had sought shelter in the Orkneys, wrote most earnestly to the king of Norway to send him back in safe custody. Prynne, iii. 1201.

CHAP. IV.

Of the Law during this Period.

THE jurists of England have written of their laws as if they thought them indigenous. The jurists of Scotland have been studious to deduce their laws from a distant country, as a far fetched system from a congenerous people. The English lawyers, indeed, might have reasoned analogically from the Anglo-Saxon authors of their common law to their Gothic progenitors in the German forests. But the Scottish lawyers, if they had listened to the Gaelic language, which they daily heard in their streets, would hardly have carried back their inquiries to the Teutonic tribes of Germany, from the Celtic clans of Scotland, who are so different in their lineage, and so unlike in their language (*a*). History, however, had not furnished the Scottish jurists with documents ; and without the certainty of facts, metaphysics may darken and system may distract ; but law cannot be cultivated as a science, either for the agreeable illustrations of theory, or for the more useful purposes of practice (*b*).

(*a*) It is perfectly evident that the lawyers and historians of Scotland had not the least conception that the people, the king, the clergy, the law, and the government, were all Celtic in 1097 A. D. ; and consequently, those lawyers and historians were not aware of the absurdity of their speculations on their theories of Scottish jurisprudence. From that view, it is apparent, that they could not, in speculating on the municipal law of North-Britain, go beyond that epoch ; and of course could not get back to the obscure reign of Malcolm Ceanmore, nor even to the Celtic times of Donal-bane.

(*b*) It was remarked by Lord Kames in 1757, "Were it decent to criticise a favourite "author, it might be observed that Craig has taken little pains to search into the antiquities of "our law. It was not the practice in his days [he died in 1608] either for historians or law-"yers to dip into records ; and our author [Craig] appears to be better acquainted with the "feudal history of other countries, which might be learned from books, than with the feudal "history of his own country, which must be gathered from records. Nor, is it wonderful that "so polite an author should be followed by Lord Stair and other late writers." Statute Law Abridged, 434.

In tracing the progress of law, the chief object is the people, who transmit it by tradition and usage. In every period of the Scottish annals which preceded the present, the inhabitants of North-Britain were Celtic, and not Teutonic, as we have seen in many a retrospect (*c*). Their jurisprudence was altogether analogous to the nature of a Gaelic people (*d*), and Malcolm Ceanmore, as he did not make any change in the usages of his fathers, bequeathed to his children a Celtic Church, a Celtic government, and Celtic customs (*e*), for which a Celtic people loudly clamoured after his demise, and long contended throughout the present period (*f*).

During the present period, from 1097 to 1306 A.D., the great body of the people continued to be Celtic (*g*). In Strathclyde the British inhabitants retained the juridical usages of their British fathers (*h*). In Galloway the Scoto-Irish settlers enjoyed " their own peculiar laws," nothwithstanding the legislative efforts of Edward I. (*i*). In proper Scotland, on the north of the two Friths, as it remained Celtic, the great body of the people continued to practise Gaelic customs and to oppose the introduction of Gothic forms. In Ireland during the same period the English laws were circumscribed within a narrow circle,

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(*c*) Book i. ch. i. ii. (*d*) Book iii. ch. vii. viii. ix.

(*e*) Id. (*f*) Saxon Chron. 199-200; Florence of Worcester, 460; Sim. Dur. 460. The great defect of the Scottish writers on the juridical antiquities of their country, consists in supposing what was altogether unfounded, that the Scottish people were *German* and not *Gaelic,* and on this mistake they reason, analogically, but absurdly, from the ancient customs of the people of Germany to the supposed customs of the inhabitants of Scotland. On the streets of Edinburgh, it is easy to distinguish a Gaelic highlandman from a Saxon lowlandman by their speech, and the juridical question is, what were the laws which prevailed in Scotland when it was wholly inhabited by highlandmen? The answer must be, by Gaelic customs, and not by the feudal law. Yet, says the late Dr. Gilbert Stewart, " Scotland was a *feudal* kingdom." Pub. Law, 10. But, *when* did it begin to be a feudal kingdom is the point in question. From a concatenation of such assertions which are equally sophistical, the same writer goes on to conclude, " I think I am justified to infer the *high antiquity* of fiefs in the Scottish nation." Ib. 12. Similar notions had been before propagated by Craig in his *Jus Feudale,* and by Lord Kames in his *Essays concerning British Antiquities.* Now, those inferences were drawn in the face of a thousand facts, and in contradiction to the impossibility that *fiefs,* which originated with a *Teutonic* people, could have existed in Scotland among a *Gaelic* people. It began to be a feudal kingdom at the commencement of the Scoto-Saxon period, 1097, at least in some districts of proper Scotland.

(*g*) See before B. iii., c. x., B. iv., c. i., wherein that position is not only proved, but the Saxon colonization of proper Scotland is minutely traced. (*b*) Book iii., ch. v.—ix.

(*i*) Id.; Stat. Alexander II. ch. 2; 2d Stat. of Robert I. ch. 36, in Skene's Auld Laws; Robertson's Index.

which was emphatically called the *English pale* (*k*). In North-Britain, it was in Lothian, and in the towns which lay along the eastern coast, and which may be deemed the *English pales,* that the English jurisprudence gradually prevailed over the ancient usages. After the end of the Scoto-Saxon period, it required many a struggle through subsequent ages before the English law became triumphant over Gaelic customs, and enforced the submission of an unwilling people within the whole extent of Scotland, so difficult has it always been to force strange laws upon a people in opposition to their habits.

In the law of every country, through every age, persons must precede things. During the Scoto-Saxon period, the great personage who appeared resplendent in history, and in the chartularies, was *the King.* He was the *generalissimo* of the kingdom, who personally led his armies into the field. He was the great justiciary from whom emanated all jurisdiction, and who personally administered justice to his people (*l*). He seems to have been the fountain-head of

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(*k*) Dionysius Campbell, the Dean of Limerick, who was sent by the English government to Scotland in 1596, to intrigue among the western highlanders, remarked, "that most of the lords of the "islands neglecting to pay the king's rents when process of law doth not prevail upon them to come "to the court, or *English Pales,* of Scotland, are committed to prison." MS. Observations in the Paper Office. We thus see that in former times, the Scoto-Saxon districts were emphatically called *The English Pales.*

(*l*) In the chartularies may be seen some curious examples of that practice in early times. In a charter of David I., he granted to the abbot of Melrose the lands and wood of Galtonside: "Sicut ego ipse et Henricus filius meus et abbas Ricardus preivimus et circuivimus die veneris "crastino ascencionis Domini, anno scilicet secundo quo Stephanus rex Anglie captus est [1141]." Chart. Melrose. In a charter of Richard, the Bishop of Moray, he confirmed to the monastery of Kinloss the grant of David I. of Kinloss and Inverlochethin, "per rectas divisas terram quam "ipse rex David eis perambulavit." MS. Monast. Scotiæ, 205. In 1226, King Alexander II. confirmed this charter in the same significant expressions. Ib., 207. In 1184, a controversy between the church of Melrose and the men of Wedale, was settled before William the Lion and his brother David, and several bishops and nobles. The point of right was, however, decided by Richard Moreville, the Constable, and twelve *fideles homines.* Chron. Melr., 176. Earl Henry, the son of David I., granted to the monastery of Kelso the lands of Traverlen and Cragam: "Sicut "pater meus, et ego, et episcopus Johannes, peragravimus." Chart. Kelso, 240. The Chartularies are full of proceedings before the king in his court; before the king and his nobles. But it will scarcely be believed that it was necessary the king himself should be present, personally, on such occasions. Yet this is not fiction, but a fact as record attests. Alexander III. lying sick at Jedburgh in 1261, on Monday of Pentecost, William Cumyn of Kilbride appeared before the king in his bed in the great tower of the castle of Jedburgh, the queen, the Earl of Mar, the Earl of Dunbar. John Cumyn, Aymer de Makeswell, Alexander Oviet, being all present, and resigned the lands of Sleindaff to the Bishop of Glasgow. Chart. Glasgow, 241. This curious fact illustrates what must have once been the practice of England, which still requires precepts to be returned before *the king himself.*

honours, which could only be communicated by him to his subjects. He appears, also, to have been the lawgiver of his people, although it should seem this sovereign power was exercised with the advice of his clergy, and the assent of his nobles (*m*).

The second person of the realm was the king's son, the prince of Scotland. (I.) Under the Celtic constitution there was a *tanist* who was the heir presumptive to the crown, and enjoyed many rights. After the acquisition of Cumberland, the tanist was incidentally *Prince of Cumberland* (*n*). Under Alexander I. his youngest brother David was *Prince of Cumbria*, and had for his *appanage* the shires on the borders, both on the west and east (*o*). Under David I. his son Henry, who was born in 1115, became Earl of Northumberland and Huntingdon, and enjoyed large estates in the southern shires as his *appanage*. After the death of Prince Henry in 1152, the aged David destined his grandson William, who was born in 1143, to the earldom of Northumberland; obliged the Northumbrian Barons to swear fealty to him; and took hostages for their obedience (*p*). But the accession of Henry II. blasted the fond hopes of the Scottish king. During the reign of Malcolm IV. his brother William, who was his presumptive heir, seems to have enjoyed neither *appanage* nor *title* (*q*). William relinquished the *honour* of Huntingdon to his brother David, who was long his presumptive heir. This character ceased in 1198, when Alexander, the heir of William, was born. David throughout his life appears

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(*m*) Sir G. Mackenzie's Institutes, 11, 12; the Chartularies throughout; and the Berne Collection herein-after-mentioned. "In the Annals of the North, saith Wallace, in his *Ancient* "*Peerages*, 116, it is recorded to have been declared by a statute of *Finnan*, that the king should "do nothing in the public administration of the realm without the advice of his nobles, and that "it should not be lawful for him either to make war or to conclude peace, without the consent "of his captains and of the tribes." For this information, Wallace refers to Boece, Buchanan, and Balfour. They ought all to have known that there never was such a king as *Finnan* in North-Britain. If we ask when, where, and by whom, such a statute was recorded, the answer must be, in the fiction of Boece, the falsehood of Buchanan, the folly of Balfour, and in the egotism of Wallace. This conceit is contradicted by history, and was conceived in the face of a thousand facts.

(*n*) See book iii., ch. vii. (*o*) Ib., ch. v.

(*p*) In Dug. Monast., ii. 203, there is a charter of William to the canons of Brinkeburne, wherein he calls himself: "Willielmus de Gwarer Comes Northumbriæ."

(*q*) There is a charter of Henry II. at Woodstock in 1163, which is witnessed by Malcolm, King of Scotland, and *his brother William*. Kennet's Par. Antiq., 119. As he was born in 1143, William was not of age in 1163. Whatever Yorke may intimate in his Union of Honour, 165, William never was Earl of Huntingdon, till he ascended the throne.

to have been the most opulent baron in Britain (*s*). Alexander ascended the throne in 1214, when he was only sixteen, and could have had no *appanage* as prince of Scotland. His son, Alexander III., became king when he was still an infant eight years old, and could have had no distinct provision as prince. The male issue of Alexander III. died while they were infants, and his female heirs resided in Norway. Thus much, then, with regard to the princes of Scotland and their *appanages* before the accession of Bruce. (II.) It was the great effort of the later life of that great king to settle the descent of the crown. His brother Edward was placed the first in the series of heirs, and he was amply provided for as Earl of Carrick and Lord of Galloway. Margery, the eldest daughter and heiress of the king, when she married Walter the Stewart of Scotland received many lands as her marriage portion. But she seems to have had no appanage settled on her as princess of Scotland, her husband being one of the most opulent barons in Britain. David, the son of Robert Bruce, was only a child when he died, and spent a long reign as an infant, an exile, or a prisoner. Robert II., the son of Margery Bruce, succeeded to the crown in 1371, under the parliamentary settlement, nothwithstanding the intrigues of Edward III. and David II. Before the dynasty of Bruce, the heir of the crown had no particular designation and no appropriate appanage. But on the accession of Robert II., John, his male heir, was acknowledged by parliament as his *son* and *heir*, and as Earl of Carrick and *Stewart* of Scotland (*t*). When John became Earl of Carrick, the antiquaries could not ascertain ; but April, 1369, is the true epoch of his creation by David II. (*u*). John succeeded to the crown by the name of Robert III., in 1390, under the parliamentary settlement. His eldest son, the Duke of Rothesay, was assassinated by his uncle. His second son James while a boy was taken prisoner by the English during a truce, and was educated in England. We are now arrived at the epoch of the creation of *the Principality* as the appropriate appanage of the prince of Scotland, on the 18th of December, 1404 (*x*).

(*s*) In 1189, David, as Earl of Huntingdon, walked at the coronation of Richard I. Sandford's Gen. Hist. 74. He married Maud, the daughter of Hugh, Earl of Chester, and he thus became the common stock, whence the claimants of the Scottish crown derived their just pretensions.

(*t*) Hay's Vindication of Elizabeth More, App. No. 1 ; Robertson's Index, App. p. 11.

(*u*) Hay's Vindication, 96, with Crawford's M.S. note : and Dougl. Peer, 131.

(*x*) Sec Macleod's Casus Principis, 19 ; Carmichael's various Tracts, 103-137. There is nothing in the Parliamentary Record on this interesting subject. See, however, Glendoick's Acts, Ja. IV., Parl. ii. ch. xvi., an act anent the free tenants of the Duke of Rothesay and Stewart of Scotland; and see the same collection, 452, a ratification in 1621.

The third description of persons next in rank to the king's son were the prelates, who, at the commencement of the Scoto-Saxon period, were but few in North-Britain. Before the conclusion of that period the Church was settled there on the same policy which had dictated every other religious establishment of the Christian world. The bishops, the abbots, and the priors were undoubtedly original members of the Scottish parliament (*y*). Whether the bishops sit in the English legislature from the right of their *baronies*, or from the authority of usage, is not quite settled among the English jurists (*z*). It is, however, more than probable that the bishops, the abbots, and priors were called to the king's councils by the king's summons.

It is a question which has been often asked, yet has never been satisfactorily answered, when were the titles of earl and of baron introduced into Scotland? The late Lord Kames answers explicitly that it was Malcolm Ceanmore who introduced both (*a*). But that learned person did not know that the prince, the people, and the polity of North-Britain were all *Celtic* in Malcolm's reign. Wallace, who followed the speculative track of Lord Kames at the distance of forty years, gave it as his opinion "that earldoms are probably "more ancient than Malcolm" (*b*). The name and the thing which existed among the Anglo-Saxons are Teutonic, and it is not probable that a Gaelic prince who was not an innovator among a people who did not admit of innovations, would have introduced among such a people a new office with a new name. During the Scottish period, as we have seen, proper Scotland was

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(*y*) In the great Parliament at Brigham in 1290, there were present as constituent members thereof, twelve bishops, twenty-three abbots, and eleven priors. Rym. Fœd., ii. 471.

(*z*) See the notes on the late edition of Coke-Lyttelton, 70 (*b*)—134 (*b*), where the better opinion seems to be, that the bishops right to sit in Parliament arose from *usage*. But every usage must have had a beginning; and the question will ever recur, what was the origin of such an usage? The answer must be, the king's writ.

(*a*) Essays on Brit. Antiq., 21.

(*b*) Ancient Peerages, 51. For this improbability Nisbet's Heraldry is quoted, which cites forged laws and fictitious histories; and which relies on Torfæus the Norwegian historian, who flourished at the beginning of the eighteenth century. An "Authentic Deed," which is quoted by Sir James Dalrymple in his Collections, 225, is also mentioned, but this *authentic deed* is merely an *excerpt* of *monkish* history. The charter of Malcolm Ceanmore to Dumfermline, which was published by Dugdale, in his *Monasticon*, from the communication of Sir James Balfour, might have also been quoted with good effect, because it plainly speaks of earls and of barons. But this unlucky communication of Sir James Balfour is a palpable forgery, as we might learn, indeed, from Sir James Dalrymple. Nor, will there easily be found any real evidence of there having existed in the early reigns of Malcolm III., much less of Malcolm II., any earls or barons, because a Saxon policy could not have existed among a Celtic people, who had an aversion, as we have seen, to the language and law of their Saxon neighbours.

divided into several districts, which were ruled hereditarily by considerable persons, who were called in the Gaelic speech *Maormors.* But there is not throughout that period a single trace, in any authentic document, of an Earl, a Baron, or a Thane. It is remarkable that the countries which were then governed by *Maormors* were the same districts, whose chiefs are termed *Comites* or *Earls,* under Alexander I. (*c*); and it is more than probable that no other change happened in the polity of Scotland at the commencement of the Scoto-Saxon period in this respect, than merely mentioning the Gaelic *Maormor* by the Latin name of *Comes,* which was easily translated into the English *Earl.* The districts thus insensibly became *earldoms,* and the Maormors, Earls; but there certainly was no *erection* of any earldom, nor creation of any earl; as Lord Hailes and the peerage writers suppose (*d*). Both *Comites* and barones existed undoubtedly under David I., at least on the south of the Friths, and *Comites* clearly appear under Alexander I., within proper Scotland (*e*). In the genuine charters of Edgar, none of the witnesses are either

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(*c*) Chart. Scone; Sir Ja. Dalrymple's Col. Ap. No. 2. There are six *comites* who witness this charter.

(*d*) Sutherland case; Crawford and Douglas. The same changes took place in France under the *second race.* The peerages, which are not older than 1010 A. D. and the fiefs had the same origin, says Henault. The charters creating them have never been seen, because they were assumed by the peers themselves. Henault's Abr. Hist. of France, i. 127-138. This intimation of the learned Henault exactly applies to Scotland, in a subsequent age. The *Maormors* assumed the right of being *Earls,* when the word *Maormor* became obsolete, and the term *Comes* became fashionable.

(*e*) Several charters of David I. are addressed, "Comitibus, Justiciis, Baronibus, Viceco-"mitibus, &c." Diplom. Scotiæ, pl. xiv., xvi., xviii: and Chart. Glasg. 429. It is to be observed that some of those charters are addressed to *Anglis* et *Francis* only, and not to *Scottis.* In the "Diplomata Scotiæ, pl. xxii. and xxv., there are two charters of Malcolm IV. addressed "Comitibus, "et Baronibus, &c." "Francis et Anglis, Scottis et Galwethiensibus, &c., totius terræ." Thus, the peers and the peerages did not commence in North-Britain till the twelfth century. Chart. Scone, Nos. 1, 2, 3; Chart. Dunfermline; Dalrymple's Col., 373-383; MS. Monast. Scotiæ, 105. By comparing the charters of Henry I. with those of his contemporaries, Alexander I. and David I., it will appear distinctly, that the English bishops and barons preceded the Scottish several years, in the useful practice of affixing their titles to their signatures. This practice of annexing the title to the name commenced under the reign of David I. The first *Comes* who annexed his title to his name was Gillebride, *Comes* de *Anegus.* Diplom. Scotiæ, pl. xxiv. The Countess of Fife, however, preceded this earl in this dignified innovation. Hela, *Comitissa* de Fife, was a witness to the charter of Ada, the wife of Earl Henry, and the mother of two kings, Malcolm IV. and William, giving to the monastery a toft, in Haddington. As this charter was made during the life of Earl Henry, who died in 1152, Hela has the honour of being the first Countess or Count who has yet appeared as a witness to any charter with the name of the earldom annexed. Trans. Antiq. Society earls or barons. What title Alexander, the successor of Edgar, bore during the reign of Edgar cannot now be known. But David, his youngest brother, called himself, and was called by others, *Comes*, during the reign of Alexander, though not of Edgar (*f*).

During those reigns there does not appear a *Comes* as a witness to any of the charters of Earl David, or of his son Henry (*g*). The *Comites* first appeared in the charters of Alexander to Scone, and of David to Dunfermline; nor does there seem to have been any *Comes* who annexed any title to his name till the reign of Malcolm IV. Such, then, are the facts as they appear in the chartularies which scoff at speculation and mock metaphysics (*h*).

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of Scotland, i. 118. In addition to those Gaelic *Maormors*, the only *Earls* who seem to be of new creation, during the Scoto-Saxon period, were: The Earl of Dunbar, whose great progenitor, however, was Gospatrick, the Earl of Northumberland; The next was Duncan, the Earl of Carrick, by William the Lion; and the other was William, the Earl of Sutherland, by Alexander II. Here, then, are only three earldoms which appear to be new, throughout this period of the North British Annals.

(*f*) In a charter of Simon de St. Liz, the Earl of Northampton, Henry I. signed as king of England, and Matildis as *Queen*; then follow several bishops and earls, who signed by their baptismal names and local titles. The last of all was "Signum David fratris reginæ." Dug. Monast. i. 680. Henry I. addressed a subsequent charter, "Comiti David," among other faithful persons, "de Huntendenseira." This seems to intimate that David became Earl of Huntingdon, from his marriage in 1110. Firma Burgi, 270; Diplom. Scotiæ, pl. x; Smith's Bede, 762. As Earl David, he witnessed a charter of Henry I., among other great persons at Windsor. Madox's Formulare, 292.

(*g*) In the *Inquisitio Davidis*, 1116 A. D. appears, as a witness, Matilda *Comitissa*, his own consort, but no *Comes*. In David's charter to Selkirk, while Alexander reigned *in Scotia*, Matilda, Comitissa, is again a witness, and Henry, his son, is a witness; but not a *Comes*, though there be two *Vice-comites*. After Henry became Earl of Northumberland, he called himself in his charters "Henricus Comes, filius regis Scotiæ." He addressed his charters, "Justiciarijs, *Baronibus*, vicecomitibus, prepositis, &c." Smith's Bede, 762. In Alexander I. charter of Scone, Gospatrick appears as a witness without the title of Comes. After the accession of David I. in 1124, the same Gospatrick in his charter, called himself *Comes*, without any addition of Dunbar or March. Smith's Bede, 763. These circumstances show that he had in the intermediate time, either acquired, or assumed that title.

(*h*) The *barons*, as we have seen, were familiarly known under David I. But, the term *barony*, which was used in England as early as 1220, as we know from Madocx's Baronage, appears very seldom, indeed, in the usage of Scotland thus early. The *barony* of Kilblathmont is called for in 1219. Chart. Arbroath, 2; and yet the term *barony*, as applied to lands, was scarcely used till the reign of Alexander III., and even then but very rarely. In 1260, Chart. Kelso, 350; and in 1271, Chart. Soltre, 17; and the *baronia* de Coldingham appears in a charter of Alexander III., to that monastery. Chart. Cold. 7. These are the only instances which I have met with in the Chartularies, so unfrequent was the use of the term *barony* in those times.

What officers of state surrounded the Celtic throne of Malcolm Ceanmore cannot now be ascertained. The only officer who appears near Edgar was the *Pincerna*, the *Minister poculorum*, who, indeed, is mentioned in *Domesday-book* (*i*). The *Minister poculorum* seems to have become hereditary in the family of Soules before the end of this period, and a descendant of this family, William de Soules, enjoyed the office of *Buttelarius* under Robert Bruce (*k*).

Under Louis le Gros, who began to reign in 1108, at the same period with Alexander I., the usual officers who witnessed the French charters were the steward, the chamberlain, the butler, the constable, and the chancellor. In England under the Norman kings the principal officer was *the justiciary*, who soon became too great both for the king and subject (*a*). Such an officer seems not to have existed in North-Britain during the three first reigns of the Scoto-Saxon series, the king alone being *justiciary* or supreme judge. Under Alexander I. and David I. there appears to have been a justice of high authority both on the south and on the north of the two Friths (*b*). This policy continued during the reign of Malcolm IV., who had his justice on the south of the Frith as well as in Scotland (*c*). There appears at the same time to have been subordinate judges in almost every district of North Britain, who seem to have continued during the subsequent reign of their successor (*d*).

(*i*) In the genuine charters of Edgar, Afric *Pincerna* is a witness; and he was again called upon to witness the charter of Alexander I. to Scone.

(*k*) Diplom. Scotiæ, li. William de Hay was the King's *Pincerna* under Malcolm IV. Ib., xxv.; and in the early part of King William's reign. Chart. Cupar, 3; Chart. Glasg., 27. After him Ranulph de Sules was *Pincerna* to William the Lion. Chart. Newbotle, 45. Malcolm appears as the King's *Pincerna* in the end of King William's reign. Register of St. Andrews; Chart. Scone, 71; and in the beginning of the reign of Alexander II. Chart. Glasg., 169. After him Nicholas de Sules was Pincerna to Alexander II. Chart. Newbotle, 191. The bishops had also their *cup-bearers* in that age. A charter of Gilbert, the Bishop of Dunkeld, a° 1231, is witnessed by Henry "*Pincerna* "*nostro.*" Chart. Balmerinach, 26. Several deeds of Andrew, the Bishop of Moray, from 1222 to 1242, are witnessed by Michael, *his Pincerna*. Chart. Moray.

(*a*) Madox Exchеq., 30; Dugdale's Series; Blackst. Com., iv. 415.

(*b*) Reg. of St. Andrews; Crawford's Officers of State, 431. (*c*) Chart. Coldingham, 3.

(*d*) Brice, the *king's judge*, is a witness to King William's charter of Aberbrothock. The same Brice appears as a witness to several other charters. Macbeth was *judge of Gowry* during the reign of William. Chart. Cupar, 14; Chart. of Scone, 54. Roger Kayir, the *king's judge*, witnessed a charter of Henry, Lord of Anstruther, to the monks of Balmerino. Chart. Balmer., 49. Constantine was *judge of Strathearn* at the beginning of the 13th century. Chart. Aberbroth., 49. Baldwin was judge of Fearn in 1222. Rob. Index, 53. Ferchard, the *judge of Buchan*, was a witness to a charter of William the Earl of Buchan. Chart. Aberdon, 203. Lawrence was

A new policy appears to have been established by William the Lion, if it were not settled in the preceding reign. Two *justiciaries* were established in the place of the *supreme justices*—the one for the whole country on the south of the two Friths, who was called the justiciary of *Lothian*, the other for proper Scotland.

David Olifard appears before 1165 as the earliest justiciary on the south of the Friths (*e*). He was succeeded by Robert Avenel (*f*), and this respectable Baron was followed successively by Robert de Quinci, William de Lindesay, Patrick the Earl of Dunbar, and Hugh de Berkley, as justiciaries of Lothian during the reign of William the Lion (*g*). Hugh de Berkeley seems to have been followed by Walter Olifard, who occurs frequently in the chartularies, and was long justiciary (*h*). Beside the administration of justice, the justiciary of Lothian attended the perambulation of lands in obedience to the king's precept (*i*). Walter Olifard, who died in 1242, was succeeded by David de Lindsey in 1243, and he continued to be the justiciary of Lothian through the remainder of the reign of Alexander II. and during the first years of his successor (*k*). David de Lindsey was succeeded by Hugh de Berke-

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judex of Perth. Chart. Scone; Fragments of Scot. Hist., 52. Malisius, *judex,* appears about 1200. Ib. Duncan *judex* was one of the inquest in Angus during the reign of Robert I. MS. Monast. Scotiæ, 30.

(*e*) He witnessed a charter of Malcolm IV. to the monastery of Scone, and several charters of William the Lion. Chart. Scone; Crawf. Peer., 376.

(*f*) Chart. Dunfermline.

(*g*) Robert de Quinci, as justiciary, witnessed several charters of King William between the years 1171 and 1180. Chart. Paisley, 32; Chart. Kelso, 385; Robertson's Ind., 79. William de Lindsay, as justiciary, witnessed several charters of the same king between 1189 and 1198. Chart. Glasg., 211; Chart. Kelso, 325; Chart. Soltre, 6. Patrick the Earl of Dunbar, as justiciary, witnessed a charter of King William about 1199. Chart. Kelso, 143. Hugh de Berkeley, the *justiciary of Lothian,* appears in a charter of this king between 1202 and 1214. Chart. Newbotle. He must not be confounded with another Hugh de Berkeley who was justiciary of Lothian during the reign of Alexander III.

(*h*) Walter Olifard, as justiciary of Lothian, appears in many public transactions, and witnessed many charters of Alexander II. from 1221 to 1242, when he died. Chron. Melrose.

(*i*) Vivian de Muleneys granted half a carucate of land to the hospital of Soltre; "Sicut *men-*"*surata* fuit per Dom. Walterum Olifard justiciar' Laudon. ad *mandatum* dom. Regis Scotiæ." Chart. Solt., 11. The same Vivian granted his whole lands of Saulton, "sicut mensurata fuit per "dom. Walt. Olifard just. Laud. de *percepto* Dom. Regis." Ib., 12. The justiciaries frequently appear at the head of inquests, which were called by the king's precept, for deciding the disputed boundaries of lands and other controverted claims.

(*k*) David de Lindsey, the *justiciary of Lothian,* witnessed several charters of Alexander II. in the 29th, the 32nd, and the 35th years of his reign. MS. Monast. Scotiæ, 63; Chart. Scone, 67; Dalrymp. Col., 352.

ley (*l*). How long he continued cannot be ascertained. But it is certain that William de Soulis was justiciary of Lothian in 1284, and continued at the troublous epoch of the demise of Alexander III. (*m*). Galfrid de Moubray was justiciary of Lothian in 1294 (*n*). Whether he continued to act during the disastrous times which succeeded, cannot now be known. It is certain that Edward, by the ordinance which he issued in 1305 for the government of Scotland, directed that there should be two coadjutant justices in Lothian; John de Isle, an Englishman, and Adam de Gordon, a Scotsman (*o*). This office was restored by Robert Bruce, and seems to have continued till the recent establishment of the courts of session and justiciary (*p*).

It is equally certain that the office of justiciary of proper Scotland, was established by William early in his reign, if not by his predecessor Malcolm. Galfrid de Maleville appears to have been justiciary in the period between the years 1165 and 1171 (*q*). He was succeeded by Richard Cumyn, who appears in several documents as justiciary, between the years 1171 and 1189 (*r*). As Richard Cumyn was advanced in years, Duncan, the Earl of Ffie, was associated with him as early as 1175. Duncan continued long in this high office, and died in 1203 (*s*). David de Lindsay appears to have been justiciary of Scotland for some time, between the years 1203 and 1208 (*t*). William Cumyn,

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(*l*) He witnessed several charters of Alexander III. in 1265. Diplom. Scotiæ, 36; in 1266, Chart. Soltra, 9; and in 1267, Chart. Kelso, 395.

(*m*) Chart. Paisley, 106; Chart. Glasg., 397. William de Soulis, "*tunc Justic. Laodon,*" was one of the *Magnates Scotiæ* who acknowledged the succession to the crown in 1284. Rym. Fœd., ii., 266.

(*n*) Chart. Kelso, 191.

(*o*) Ryley's Placita, 504.

(*p*) In 1284 William de Soulis held his court, as justiciary of Lothian, at Glasgow. Chart. Paisley, 106. In 1487 James III. granted to the Abbot of Paisley a remission for his tenants, who were tried at Renfrew by the justiciar; a similar remission was granted in 1488 by James IV., and both these remissions were addressed "to our justiciar on the south half of the water of Forth." Chart. Paisley, 225-6. In 1430 Sir Thomas de Somerville sat as justiciary of Lothian at Stirling. Doug. Peer., 626. The foregoing notices show that the justiciary of Lothian had under his jurisdiction the whole country on the south of the two Friths.

(*q*) Chart. Glasg., 25. He had been vicecomes of Edinburgh Castle under Malcolm IV. Chart. Newbotle, 159, 175.

(*r*) Chart. Antiq. Bibl. Harl.; Diplom. Scotiæ, pl. 26. Richard was the nephew of William Cumyn, the chancellor, and the father of William Cumyn who became the Earl of Buchan, as we have already seen.

(*s*) Earl Duncan the justiciary witnessed many charters and precepts of William from 1175 to 1200. Chart. of Moray, 53, 69, 147-154-155-158; Chart. Cupar, No. 5-13-14-35-39; Chart. Aberdeen, 300; Chart. Aberbrothock, 36-38-49-65-72; Chart. Glasgow, 31-339; Sibbald's Fife, 113; Wight on Elections, App., 410.

(*t*) Chart. Antiq. Bibl. Harl., 53.

who soon after married the Countess of Buchan, appeared as justiciary of proper Scotland in 1208 (*u*); and he continued to execute this high office, with decisive effect till the year 1231, when Alexander II., returning from the north, appointed, at St. Andrews, Walter, the son of Alan, the Stewart, to be his successor (*x*). Walter was succeeded in 1240 by Richard de Montealt, and there seems to have been associated with him in executing that great trust, Philip de Maleville (*y*). But they were too feeble for such an office during difficult times, and they were superseded in 1243, by Alan, the Door-ward, an enterprizing soldier, but a turbulent statesman (*z*). As justiciary of Scotland, he acted corruptly at the coronation of Alexander III. in 1249 (*a*), and being accused of disloyalty by Henry III. of England, the justiciary was removed from his important office in 1251 (*b*). Michael de Montealt, and Philip de Meledrum, were justiciaries of Scotland in 1252 (*c*). Alexander Cumyn, the Earl of Buchan, was soon after appointed their successor. He executed this great office for some years, during very factious times (*d*). He seems, however, to have had a coadjutor in the northern parts of Scotland, where Fergus, who was probably his own brother, was the king's justiciary in 1254 (*e*). In the meantime, Alan de Lundin, the Door-ward, was again appointed justiciary in 1255, in the place of the Earl of Buchan (*f*). But this

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(*u*) Fordun, lib. xii., c. 31.

(*x*) Fordun, lib. ix., c. 48; Wyntoun, book vii., c. ix. Walter appears as justiciary in many charters from 1231 to 1240.

(*y*) Chart. Cupar, 43; Chart. Glasgow, 271.

(*z*) Alan as justiciary witnessed many charters of Alexander II., whose natural daughter he had married, from 1243 to 1249, as we may see in the chartularies.

(*a*) Fordun, lib. x., c. i. (*b*) Chron. Melrose, 219-20; Wyntoun, book vii., c. x.

(*c*) Rud. Index to the Diplom. Scotiæ.

(*d*) The disputed boundaries of the lands of Glencaryn and Kingoldrum, in Forfarshire, were settled before Alexander Cumyn, Earl of Buchan, *justiciarius Scotiæ*, in 1253. Chart. Aberbrothoc, 207. In 1254 the same justiciary, assisted by a jury, determined a controversy between the Abbot of Aberbrothoc and the Lord of Panmore, about the limits of Conan and Tullach in Forfarshire. Id.; Crawford's Off. of State, 468. In 1255 an inquest of barons was, by command of the king, held before Alexander Cumyn, the Earl of Buchan, "tunc *justiciarius Scotiæ*," to decide a disputed claim between the king and the Abbot of Dunfermline. MS. Monast. Scotiæ, 111.

(*e*) A precept of Alexander, dated in the fifth year of his reign (1254), is addressed to Fergus "*justiciario suo ex parte boreali Scotiæ*." Chart. Aberdeen, 221.

(*f*) In 1255 Alan the Doorward and other leaders of the English faction were formally admitted into the protection of Henry III. Rym. Fœd., i., 559. Under this influence they surprized Edinburgh Castle, obtained the possession of the person of the young king and queen, and overturned the power of the rival party. The Cumyns and the other leaders of the Scottish faction appointment did not last long, when the faction with which he acted was overpowered in 1257, the Earl of Buchan was restored to the office of justiciary, which he held till his death in 1289 (*f*). He was succeeded in his offices by his son John, as well as in his power and misfortunes during those terrible times (*g*). Edward I., by his memorable ordinance of the year 1305, appointed as justiciaries for the country lying between the Forth and *the Mounth*, William de Keth, and William Inge; and for the region lying on the north of *the Mounth*, he appointed Reynald de Chene, and John de Vaux, as justiciaries (*h*). This division, which seems to have existed in prior times, was continued by Robert Bruce (*i*).

The overpowering influence of the Cumyns during the factious reign of Alexander III., created the new office of justiciary, in Galloway, for John Cumyn (*k*). We thus see distinctly, whatever the writer on the public law of Scotland may have seen, that there were in North-Britain during that age three justiciaries; one in proper Scotland, with a coadjutor sometimes; one in Lothian; and one in Galloway during the reign of Alexander III. (*l*).

In England, next in rank to the justiciary, was the constable (*m*). Such an officer appeared in Scotland as early as the beginning of the twelfth century.

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were dismissed from the king's councils. Alan, the Doorward, was one of the regents in the new-modelled government, which was to last for seven years; and he was appointed *justiciary of Scotland* for the same period. Ib., 565-6-7; Chron. Melrose, 220-1; Fordun, lib. x., c. 5-9-10. Alan, the Doorward, appears as *justiciary* of Scotland in 1256. Chart. Aberbroth., No. 16. The faction with which he was associated being overturned by the rival party in 1257, he was deprived of the office of justiciary, and he fled to England. Chron. Melrose, 221; M. Paris, 644. He afterwards coalesced with the prevailing party of the Cumyns; and he was one of the ten regents who were appointed, in 1258, for the government of Scotland. Rym. Fœd., i. 670.

(*f*) He was one of the regents appointed, in 1258, for the government of the kingdom. Rym. Fœd., i. 670.

(*g*) In 1299, there was a *replegiatio hominum abbatis de Aberbrothoc infra vicecomitatum de Aberdeen, a curia Dom. Johannis de Cumyn Com. de Buchan tunc Justiciarius ab privilegium de regalitatis de Aberbrothoc.* Chart. Aberbroth., 5. He probably acted as justiciary till 1305.

(*h*) Ryley's Plac., 504. The *Mounth*, or the Mount, is the eastern end of the Grampian range in the Mearns.

(*i*) In 1309, a dispute was settled between the abbot of Lindores and the burgesses of Newburgh, by a jury, "Coram Dom. Roberto de Keth, Marescallo, et *justiciario tunc temporis ab aque de Forth "usque montes Scotiæ.*" Chart. Lindores, 10. This is the same Robert de Keith who was appointed by Edward I., in 1305, to the same office. There remains a charter of Robert Bruce, in the 20th of his reign, to the monastery of Scone, which is addressed *justiciariis ex parte boreali aqua de Forth,* et vicecomitibus de Perth, et de Forfar. MS. Monast. Scotiæ, 26.

(*k*) Rym. Fœd., 653. In 1297, Edward I. constituted Roger de Skoter justiciary of Galloway. Ayloffe's Calendar, 113.

(*l*) Pub. Law, 75-6. This writer supposes that there never was but *one* justiciary, who acted as *viceroy*, in the king's absence!

(*m*) Madox Excheq., 39.

Edward was the constable during the reign of Alexander I., and continued to execute this trust till 1140 (*n*). This great office now became hereditary in the family of Hugh de Moreville (*o*). From Hugh Moreville the office of constable descended to his son Richard, and to his grandson William. Upon the death of William Moreville, this office passed to Roland, the Lord of Galloway, who had married Elena, the sister of William, and the daughter of Richard Moreville (*p*). Roland dying in 1200, this office descended to his son Alan, the Lord of Galloway, who died in 1234 (*q*). The office of constable now passed by marriage to Roger de Quinci, the Earl of Winchester, as the husband of Elena, the eldest daughter of Alan (*r*), and after the death of Roger de Quinci, Alexander Cumyn, the Earl of Buchan, who had married his second daughter, Elizabeth became constable, owing to the resignation of her elder sister, the Countess of Derby; and from the Earl of Buchan, the office descended to his son, John Cumyn, who lost it by forfeiture, during the contest for the crown (*s*). David, the Earl of Athol, exercised the office of constable for some time under Robert Bruce (*t*). It was afterwards granted by that king to Gilbert de Hay, by a charter, which fixed the office hereditarily in a new dynasty of constables (*u*).

(*n*) Chart. Scone, 1; Dipl. Scotiæ, 16; Chart. May, 9; Chart. Glasg., 57; MS. Monast. Scotiæ, 108.

(*o*) Hugh Moreville, who was constable under David I. and Malcolm IV., and the founder of Dryburgh Abbey, died in 1162. Chron. Melrose, 168.

(*p*) Roland, the son of Uchtred, as the husband of Elena Moreville, succeeded in 1196 to the office of constable, for which, as well as for his lands, he gave a relief of 700 marks of silver to King William. Chron. Melrose; Hearne's Fordun, iii. 766.

(*q*) Alan, the constable, appears frequently in the chartularies from 1200 to 1234.

(*r*) Roger de Quinci appears as constable in many charters from 1234 to 1264, when he died.

(*s*) Alexander Cumyn, who appears in several charters both as justiciary and constable, died in 1289. His son John, after being defeated by Bruce at Inverurie, in 1308, fled to England, when both his estates and office were forfeited.

(*t*) He was constable in 1311. Chart. Aberbroth.; Crawford and Douglas's Peerages. Two charters of Robert Bruce, in 1313, are witnessed by David Com. Atholiæ, *constabularius* Scotiæ. Chart. Aberbroth., 199, 203. Failing in his allegiance to Bruce, he forfeited this office in 1314.

(*u*) In 1314, Robert I. granted to Gilbert de Hay, Knight, for his homage and service, the office of constable of Scotland, with its pertinents, to be held by him and *his heirs, in fee and heritage,* with the "*hostilages*" belonging to the said office. Diplom. Scotiæ, 45. From this intimation, we may recollect that during the days of the de Quincies there belonged to this high office some hosteleries, gardens, and other easements which seem to have come down to the accession of the Hays, in 1314. In the Frag. Scot. Hist., App. 6, there is a catalogue of all the great constables of Scotland, from the fourth year of Malcolm III., by Sir James Balfour, which may be regarded as a tissue of mistake, fiction, and falsehood.

From the great office of constable there branched out during pretty early times a subordinate office of constable (*x*). Each of the king's castles was *governed* by a constable, who, while he discharged the duty of constable, seems to have acted in a judicial capacity over a circumscribed territory around his fortress. From this intimation we may perceive the obscure origin of those jurisdictions in Scotland, which, from the constables, were called *constabularies,* several whereof continued to exist till recent times; many of those offices became hereditary in particular families; others of those jurisdictions were granted by the kings to persons during life, and all those constables had assigned to them lands and dues for their salaries (*y*). The Bishops and the Barons adopted the same policy in appointing constables for their castles, who equally exercised authority over their peculiar districts (*a*).

To the constable, the next great officer in England was the mareschal (*b*). In Scotland this office existed as early as the reign of David I. Ewen,

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(*x*) A charter of Earl Henry, the son of David I., is addressed to Unfraville, his constable. Diplom. Scotiæ.

(*y*) Norman was constable of Inverurie in the reign of William the Lion. MS. Monast. Scotiæ, 205; Dugdale's Monast., ii., 1052. Alexander de Strivelin was constable of Roxburgh Castle, A° 1241; and Alexander de Chattun was constable of the same in 1255. Chart. Kelso, 159, 238. William de Kingorn was constable of Edinburgh Castle in 1278 and 1284. MS. Monast. Scotiæ, 112; Chart. Newbotle, 49. Robert I. granted to Hugh de Erth the office of constable of Cluny in Perthshire. Robertson's Index, 19. David II. granted to Thomas Lipp the office of constable of Culan, with several lands in Banffshire. Ib., 32. The same king granted to Fergus Macdougal the constableship of Kirkcudbright, with a three merk land in Dumfries. Id. Robert III. granted to William Lindsay of the Byres the constableship of Haddington *for life.* Ib., 142. In the reign of David II. the constableship and the sheriffship of Elgin belonged hereditarily to the Earl of March, who conveyed those offices to William de Wallibus, and this alienation was confirmed by the same king in the 33rd year of his reign. The Earls of Moray afterwards became hereditary constables of the king's castle at Elgin, and had the customs of the town, the assize of ale, and several lands for their salaries. They exercised jurisdiction to a certain extent around the castle, and they decided small offences. Shaw's Moray, 203. The Earls of Huntly were the hereditary constables of the king's castle at Inverness, and had for their salaries several lands in Inverness-shire, which were called the *Castle-Lands.* Ib., 204. The family of Calder were hereditary constables of the king's castle at Nairn, with similar emoluments and judicial powers, which they continued to enjoy till the abolition of heritable jurisdictions in 1747. Ib., 204.

(*a*) In 1383 William de Landeles, the archbishop of St. Andrews, granted to John Wymes of Kirkaldy and *his heirs male,* the constableship of the castle and city of St. Andrews, together with some lands, and with a power to substitute constables in case of minority. Reliquiæ Divi Andreæ, 137.

(*b*) Madox Excheq., 43.

Mareschallus witnessed several charters of that king (*c*). Hervey de Keith acquired the office of mareschal from K. William before 1175, and it became hereditary soon after in his family (*d*). Hervey died between 1190 and 1196 (*e*); and he was succeeded by his grandson, Philip de Keith, who acted as mareschal of Scotland during the last year of William (*f*). His younger brother, David de Keith, appears distinctly to have been his coadjutor in the office of mareschal (*g*). Philip de Keith was succeeded by his son, Hervey, before the year 1220 (*h*). David, the uncle of Hervey, appears plainly to have acted as his coadjutor in the office (*i*). Hervey de Keith was followed by his son, John, at the end of the reign of Alexander II. (*k*). John de Keith died about the year 1270, and was succeeded by his son, William, who appears but little in the chartularies (*l*). William de Keith was succeeded by his more vigorous son, Robert de Keith, who acted as mareschal under John Baliol, as we have seen, and by a happy tergiversation obtained from Robert Bruce a grant of this office to him and his heirs, with many lands, which gave a new lustre to this respectable name (*m*). The bishops and abbots had their mareschals as well as the king, as we learn from the chartularies (*n*).

In England the *scheneschallus* was hereditary as early as the conquest (*o*). In Scotland this office was conferred for the first time on Walter, the son

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(*c*) He witnessed the foundation charter of the monastery of Dryburgh. Dug. Monast., ii., 1054; and he was a witness to two charters of David I. to the monks of Dunfermline. MS. Monast. Scotiæ, 105. Before Ewen, Malisius *Mareschallus* witnessed a charter of David I. to the monks of Dunfermline. Dalrymple's Coll., 393. But it may be doubted if either of them were the *Mareschallus Scotiæ*.

(*d*) The Mareschal appears in various charters between 1175 and 1196. In the charters of King William which Hervey witnessed he is called "*Marescallus meus*." Chart. Arbroath, 48, 63. In Hervey's own charters he calls himself "*Marescallus regis Scotiæ*." Chart. Kelso, 94-5-6.

(*e*) Chart. Kelso.

(*f*) Philip, as Mareschal, witnessed a number of King William's charters between 1196 and 1214.

(*g*) Chart. Arbroath; Chart. Cambuskenneth; Dalrymp. Coll., 393, and Pref., 77.

(*h*) Hervey the Mareschal and David the Mareschal attended Alexander II. to York, and witnessed his marriage contract with the princess Joan of England in 1220. Rym. Fœd., i., 241.

(*i*) Rym. Fœd., i., 241; Chart. Ant. Bibl. Harl.; Chart. Cambuskenneth, 167, 280; Chart. Aberdeen, 23. Chart. of Scone, 16.

(*k*) John de Keth, *Marescallus*, the son of Hervey, confirmed the grants of his predecessors to the monks of Kelso. Chart. Kelso, 87; and he confirmed some grants to the hospital of Soltre. Chart. Soltre, 26.

(*l*) He witnessed a charter of the Earl of Lennox about 1270, but he is not designed *Mareschallus*. Dougl. Peer., 450.

(*m*) Robertson's Ind., 1, 11, 16.

(*n*) Chart. Moray; Chart. Coldingham.

(*o*) Madox's Excheq., 48.

of Alan by David I. This office became hereditary in this family from a grant of Malcolm IV. The descendants of Walter, who acquired the name of Stewart from their office, acted as conspicuous characters in the most splendid scenes of their country, till they ascended successively the thrones of Scotland in 1371, and of England in 1603 (*p*).

To the scheneschallus, the next great office in England, was the chamberlain (*q*). This office, which, during many years supplied the place of a treasurer, appears early in North-Britain during the Scoto-Saxon period. While David I. was yet Earl, Adam *Camerarius* appears as one of the witnesses to the charter of the monastery of Selkirk (*r*). Edmund *Camerarius* witnessed a charter of David I. granting Annandale to Robert Bruce (*s*). Herbert, who is mistakenly supposed to have been the first chamberlain, appears as a frequent witness in the charters of David I. (*i*). He was succeeded by Nicholas, whom Malcolm IV. sent as one of his ambassadors to Rome in 1159 A.D. (*t*), and Nicholas, who rose to be the chancellor, was followed by a long succession of less considerable persons throughout the Scoto-Saxon period (*u*).

The next officer to the chamberlain in England was the chancellor (*x*). Yet was this important officer as ancient as the Saxon times, though he did not thus early perform the same important functions as in subsequent times (*y*). As to the antiquity of this great officer in Scotland, it is not to be doubted, saith Crawford (*z*), but that our kings had their chancellors as well as the British and Saxon kings had theirs; yet reasoning from analogy in principle, while there is no analogy in fact, cannot be admitted in fair discussion. It is altogether improbable that Scotland, during the existence of her Gaelic government, should have had a chancellor, although England had the benefit of such an officer during Saxon times. The charters of Edgar do not mention any chancellor. Herbert appears as chancellor in one of the charters of Alex-

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(*p*) Crawford's Hist. of the Stewarts; Stuart's Genealogical Hist. of the Stewart Family; and the chartularies throughout. The Bishops and Abbots, the Earls and Barons, had also their stewarts: *Dapifer* was the more early expression for this officer; *Scheneschallus,* after the reign of Malcolm IV., became the common term for this dignified station.

(*q*) Madox's Excheq., 55. (*r*) Chart. Kelso, 4. (*s*) Chart. Antiq. Bibl. Harl., 65.

(*i*) Dalrymple's Coll., 388; Diplom. Scotiæ, 24; and the chartularies.

(*t*) Diplom. Scotiæ, 25; Chron. Melrose, 168.

(*u*) Crawford's Off. of State, 252-267. His list is both erroneous in its notices, and defective in its series.

(*x*) Madox's Excheq., 60. (*y*) Dugdale's Origines Juridicale, 16.

(*z*) Officers of State, 1. Crawford supports his conjecture by appealing to the fictitious *Leges Malcolmi,* and to the modern *Regiam Majestatem.*

ander I. to Scone (*a*). The charters of David I. exhibit several chancellors in succession (*b*). This great officer, from the age of Alexander to the union of the nations, continued in Scotland to instruct by his knowledge and to influence by his wisdom. By the contract of marriage between the son of Edward I. and the grand-daughter of Alexander III., it was stipulated that the *chancellary* should remain in Scotland; that the old seal should be used till the consummation of the marriage; that thereafter a new seal should be made, "de consuetis armis," which should be circumscribed with the name of the king of Scotland alone (*c*). In 1291 Edward appointed six shillings and eightpence a day as an adequate allowance to the Keeper of the Great Seal of North-Britain (*d*); and when Alan, the Bishop of Caithness, an Englishman, was appointed the chancellor of that country in 1291, he was sworn "faithfully to carry himself according to the laws and customs of Scotland (*e*)."

(*a*) Chart. Scone; Crawford's Officers of State, 4.

(*b*) Diplom. Scotiæ; and the chartularies throughout.

(*c*) Rym. Fœd., ii. 483.

(*d*) Ayloffe's Cal., 289.

(*e*) Rym. Fœd., ii. 557. The account as well as the series of the *chancellors* are both very defective in Crawford's Officers of State. It is of great importance that a chronological list of the chancellors should be accurately stated; because it is the name of the chancellor alone who witnesses the charters which can clearly ascertain the dates of a thousand charters during those times of general uncertainty. With a view to this important point, I submit to the curious reader a more precise series of the chancellors of Scotland than is anywhere else to be found:—

Their Names.	*The Reigns.*	*The Years.*
Herbert, Bp. of Glasgow, d. 1164	Alexander I. and David I.	1120.
W. Cumyn, Bp. of Durham, 1142, d. 1153	David I. from 1133 to	1142.
Jordan, the King's clerk	David I.	1142-3.
Edward	David I.	1143-4.
Walter	David I. and Malcolm IV.	1146-60.
Engelram, Bp. of Glasgow, d. 1174	Malcolm IV.	1160-64.
Nicolas, the King's clerk, d. 1171	Malcolm IV.	1164-71.
Walter de Bidun, Bp. of Dunkeld, d. 1178	William the Lion	1171-78.
Roger, Bp. of St. Andrews, d. 1202	William	1178-89.
Hugh de Roxburgh, Bp. of Glasgow, d. 1199	William	1188-99.
Wm. Malvoisin, Bp. of St. Andrews, d. 1238	William	1199-1200.
Florence, Bp. of Glasgow, d. 1212	William	1200-11.
Wm. de Bosco, d. 1231	William and Alex. II.	1211-26.
Tho. de Strivelyn, d. 1227	Alexander II.	1226-7.
Mat. Scot, d. before 1231	Alexander II.	1227-31.
Wm. de Lindsay	Alexander II.	1231:
Wm. de Bondington, Bp. of Glasgow, d. 1258	Alexander II.	1231-2.
Rob. Ab. of Dunfermlin, d. 1271	Alexander II. and his son	1232-50.
Gamelin, Bp. of St. Andrews, d. 1271	Alexander III.	1250-55.

Earl Henry, the son of David I., and Earl David, the brother of William the Lion, the presumptive heirs of the crown, had their several chancellors, as we know from their respective charters.

In England, next to the chancellor, was ranked the *Treasurer (f)*. There was, however, no such officer in Scotland during the Scoto-Saxon period. In those times of scanty revenue, the chamberlain is said to have performed the various functions of the treasurer. Yet William the Lion had an *Expensarius* who performed the various duties of the treasurer (*g*). It was James, on his return from England, where he had learned much of his policy, who established the office of treasurer (*h*). The Bishops and Abbots had their *Dispensators*; as we know from the chartularies.

The *Hostiarius* of the king appears among the officers of state, under William, if not under David I. (*i*). Malcolm de Lundin, who was *Hostiarius* during the first part of William's reign, was succeeded by his son Thomas, who enjoyed that office through the remainder of William's life, and during the first part of Alexander II.'s reign (*k*). Thomas de Lundin was succeeded as *Hostiarius* before 1233, by his son Alan, whose various talents enabled him to perform profligate parts during that factious period, till he died in 1275 (*l*). This

Their Names.	*Their Reigns.*	*The Years.*
Richard, Bp. of Dunkeld, d. 1272	Alexander III.	1255-57.
Wm. Wishart, Bp. of St. Andrews, d. 1279	Alexander III.	1257-74.
Wm. Fraser, Bp. of St. Andrews, d. 1297	Alexander III.	1274-80.
Sir Tho. Charteris	Alexander III.	1280-85.
Adam Bp. of Caithness,	Interregnum	1291.
Alex. Kennedy,	John Baliol	1296.
Wm. de Bevercotes		1305.

(*f*) Madox's Excheq., i., 78.

(*g*) Michael, the *expensarius* of King William, appears in the chartulary of Soltre, 22; he may have held the king's *privy purse.*

(*h*) Crawf. Off. of State, 356. Borthwick's Brit. Antiq., 113.

(*i*) Malcolm de Lundin is the first *hostiarius* of the king who appears in the chartularies during the reign of William. Chart. Cupar, 51. The bishops of St. Andrews had their *hostiarius* before 1163. MS. Monast. Scotiæ, 103.

(*k*) Thomas de Lundin, "*Hostiarius domini Regis Scotiæ*," made several grants to the monasteries of Aberbrothoc and Cupar, which were confirmed by King William. Chart. Cupar, 51-2; Chart. Arbroath, 88-9, 94-5. He appears as a witness in several charters of Alexander II., whom he attended to York in 1220, and witnessed his marriage contract with Joan the English princess. Rym. Fœd., i., 241.

(*l*) Fordun, lib. ix., c. 61, lib. x., c. 1, 4, 5, 9, 10, 35; Chron. Melrose, 219, 220-1; Rym. Fœd., i., 59, 565-6-7, 670, 715.

office, when it was accompanied in after times by less talent and opulence, became of much less respectability (*m*).

The master of the household, and the *panetarius*, came into use during more recent times (*n*). Sir Andrew Moray was *panetarius Scotiæ* under Robert Bruce (*o*).

The Bishops and Abbots, the Earls and Barons, imitated the example of their sovereigns in the several appointments of their officers, and these officers performed respectively the same functions, though they were circumscribed within a narrower sphere (*p*).

It is said, however, by some of the lawyers of Scotland, that those offices were not anciently descendible to their heirs. They see the great offices of constable, of stewart, of mareschal, and of doorward, transmitted from father to son, and even to daughters, who carried their rights of heritage to their husbands: yet, the Scottish jurists doubt whether these offices were hereditary, as they equally doubt whether lands were *descendible to female heirs* under the ancient law (*q*).

The policy of sheriffdoms was introduced gradually into Scotland, as well as to Ireland, after the government of both had become Anglo-Norman: Celtic Scotland had not any of those divisions any more than Celtic Ireland (*r*). In Ireland, shires were not universally adopted till the reign of James I.: in Scot-

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(*m*) David II. granted to Ada Dispensa the office of "keeping the king's door." Robertson's Index, 47.

(*n*) Crawf. Off. of State, 355; Borthwick's Brit. Antiq., 114.

(*o*) Chart. Dryburgh, 187. In the letter from the *Magnates Scotiæ* to the Pope in 1320, which is printed in Goodal's Fordun, lib. xiii., c. 2, Henry de Sancto Claro is designed "*Panetarius Scotiæ,*" but the genuine document gives him no such office. Diplom. Scotiæ, li.

(*p*) Reliquiæ divi Andreæ, ch. viii., s. 2. A charter of Richard the Bishop of St. Andrews, from 1163 to 1173, is witnessed by his chaplains, his *Dapifer*, his *Pincerna*, his *Camerarius*, his *Mareschallus*, and his *Hostiarius*. MS. Monast. Scotiæ, 103.

(*q*) "A conceit has sprung up," said the late Lord Hailes, "that females were excluded from "the succession to lands by the ancient law of Scotland; the examples to the contrary are num-"berless." Hist. Mem. Scottish Councils, 21. The conceit is true if it was meant to apply to the *Gaelic* law of Scotland, but it is quite absurd if the *ancient law* be extended back no further than 1200 A.D.

(*r*) There is some reason to believe that Henry II. first appointed sheriffs in Ireland, and consequently assigned them districts. Ledwich's Antiq., 216. It is, however, certain that King John divided Ireland into shires and assigned them sheriffs. See Sergeant Mayart's fine argument in Harris's Hibernica, part ii., 66-70; but he adds that the Irish did so hate the English that they would not have the counties called after their names, but turned them all into territories and septs. The whole policy was so new and so odious to the Irish, that they constantly opposed the laying out of shires and the appointment of sheriffs.

land the present sheriffwicks were mostly settled as early as 1305, but they were not completely established till more recent times. Every intimation concurs to prove that a revolution of policy took place in North-Britain at the commencement of the Scoto-Saxon period, when the children of Malcolm Ceanmore imperceptibly introduced some of the laws of England into those districts wherein a new people superseded the Celtic customs of prior times.

The epochs of the Scoto-Saxon period of record and of sheriffdoms are the same (*s*). Sheriffs are mentioned during the reign of Alexander I. and David I. (*t*). Yet we must not allow that every place which had a sheriff in ancient times was a proper sheriffdom, as the sheriffs of Scone, of Edinburgh Castle, and of other towns and fortresses. During the Scoto-Saxon period, and perhaps in after times, several of the parishes were called shires from the Anglo-Saxon term which merely imported a division (*u*). Yet Galloway (*x*), Argyle, and the western isles, remained till recent times under their ancient policy (*y*). It is apparent, then, that sheriffwicks were gradually laid out as the Scoto-Saxon people gained upon the Gaelic inhabitants, and as the modern law prevailed over past rudeness. Before the conclusion of the Scoto-Saxon period, however, the continent of Scotland, if we except Galloway, Argyle, and the western coast, had been progressively settled under the useful regimen of sheriffdoms, which were governed according to the salutary rule of the Anglo-Norman law. Sheriffships had even then become hereditary in particular families (*z*). The appointment of sheriffs was originally in the king, whose officers they were; but in the progress of innovation or refinement,

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(*s*) Buchanan talks wildly of Scotland being divided into shires as early as Even, who is supposed to have reigned a century before our common era. Hope's Minor Practiks, 308. Wallace on Peerages, 112, in the same spirit of wildness, quotes upon the same point the fictitious laws of king Reutha, who never existed, of Kenneth II., of Malcolm II., who never performed a legislative act!

(*t*) Dalrymple's Coll. App.; Nicolson's Hist. Lib. App. 7; Diplom. Scotiæ, xii. to xxii.; Chartularies of Scone, Dunfermline, Kelso and others. The first sheriff who appears in record is Cospatric, *vicecomes*, in Earl David's charter to Selkirk, about the year 1120. Chart. Kelso, 4. There were sheriffs in Roxburghshire and in Berwick during the reign of David I. Nicolson's Hist. Lib., p. 363. Yet I doubt whether there were during that reign any sheriffs in proper Scotland.

(*u*) Chart. Dunfermline; Dalrymple's Coll., 383; Chart. Aberdeen. The parish of Bathgate, in Linlithgowshire, was formerly a real sheriffdom. Sibbald's Hist. Linlithgow, 21.

(*x*) Stat. Alexander II., c. 2; Skene, 14.

(*y*) Ja. IV., c. 59-60-61, enacted that justices and sheriffs be made for the *Isles;* and Argyle was in some measure placed under the sheriffwick of Perth; and in 1503, sheriffs were directed to be appointed for Ross and Caithness.

(*z*) See the ordinance of Ed. I., 1305, for the government of Scotland. Ryley's Placita, 504.

when private rights had become fixed and hereditary, an act of Parliament equally became necessary to divest privileges as to establish jurisdictions (*a*); and the Barons in those times had their sheriffs for similar purposes as well as the king (*b*); but of wapentakes, laths, tithings, rapes, ridings, or hundreds, Scotland knew nothing, as they all arose in England from Saxon customs beyond time of memory.

Thus much then with regard to the higher ranks of men in North-Britain. The middle stations including the burgesses were few, and they were only inconsiderable, even comprehending the Thanes, who are more dignified by fiction than memorable from fact (*c*). We have already seen how impossible it was for the Saxon policy of Thanes to have existed during the Celtic government of North-Britain (*d*). Thanes and thanedoms were unknown to Celtic Scotland, as they were equally unheard of in Celtic Ireland (*e*). In England, not long after the conquest, when so many juridical changes were made, not only the word *thane* was disused, but the office was discontinued (*f*). In Scotland where the Saxon policy began to prevail at the period of those changes, the office and the name of *thane* were introduced. When the Anglo-Norman law came into North-Britain, with the Anglo-Saxon colonization by a new dynasty of kings, the appointment of thanes probably took

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(*a*) Wallace Peerages, 111; Statute Book. In 1300, it was enacted by 28 Ed. I., c. 8, that the inhabitants of every county should make choice of their sheriff, where the shrievalty is not of *fee*. This enactment, which appears never to have been the law of Scotland, was altered by 9 Ed. II. Stat. 2.

(*b*) Richard Moreville, the constable, had Henry de Sinclair for his sheriff, who was also sheriff to William Moreville. Chart. Glasg., 163-5. Hugh Gifford of Yester granted to the monks of Newbotle, Cressewell, in Lothian, "sicut Alexander *vicecomes* mihi perambulavit." Chart. Newbotle, 89.

(*c*) Like the words shire and sheriff, the terms *thane* and *thanedom* were also derived from the Saxon language and policy. See before, book iii., c. ix.; Clarke's Connection, 445-8; Kelham's Domesday, 343; Whitaker's Manch., ii. 157, 174, 182-3.

(*d*) See before, book iii., c. ix.

(*e*) The silence of Ware and of Ledwich attests the fact as to Ireland. It is a still more instructive fact that the thanedoms of Scotland lay all on the east coast, the proper country of the Scoto-Saxons, and not on the western shores of Galloway, Argyle, and Ross, the appropriate districts of the Gaelic people, who, as they had not the *name*, of course had not the *thing*. The Scottish historians, indeed, speak of the existence of thanes in North-Britain during the Celtic times of Macbeth: but they are not to be believed when they scribble of improbabilities, whereof, either as writers or as witnesses, they knew nothing but the name; yet sober inquiry resists in vain the overpowering magic of Shakespeare, which will for ever convince the eye and the understanding that "the *thane* of Cawdor lives."

(*f*) Cowel in vo. *Thane.*

place. Under David I., the thanes and the thanages appear in the chartularies to have been fully established (*g*).

Yet the thanes were never officers of state who attended the person of the king, if we may believe the silence of the chartularies, which never exhibit them as witnesses of the king's beneficence. The thanes were altogether connected with land, which they managed as bailiffs, with a just analogy to their ancient functions (*h*), and their numbers increased in proportion as districts were divided and manors were settled (*i*). The Abthane, however, which is

(*g*) Almost the whole kingdom in the time of Malcolm II. [1003-1033 A.D.], saith Fordun, was divided into *thanages*. Lib. iv., c. xlviii. For this improbability the fabler, who lived in the fourteenth century, has neither fact nor authority nor analogy to support his assertion; he has not even the *Leges Malcolmi* for his warrant. There is not the least evidence that the great districts of Scotland were ever called thanages, or that there were ever thanes of Fife or Ross, except in the fictitious histories of Boece and the imitative chronicle of Holinshed. In none of the charters of Edgar or Alexander I. are thanes or thanedoms or thanages ever mentioned, but they are noticed by the charters of David I. Diplom. Scotiæ, xvi. See the chartularies of Aberdeen and of Moray, and the recitals of the grants of William his grandson. The first thanes who appear in proper Scotland are Macbeth *Thane of Falkland* and Malmure *Thane of Kellie* in the reign of David I. Reg. of St. Andrews; Chart. May.

(*h*) See Cowel in vo. *Thane, thegne, theyn*; and the context of the charters of David I., before mentioned, of Haddington and Clerkington, intimate that he understood the word and the thing in the same sense as *bailiff* or land-steward. Diplom. Scotiæ, pl. 16; Antiq. Transac. of Scot., i., 116-17. But there is a charter of William to the bishop of Moray, "De decimis solvendis," which describes his *theynes* so distinctly as to admit of no doubt: "Si villanus fuerit qui decimam "suam dare noluerit, *theynus sub quo rusticus est,* distringat illum decimam illam sive aliam recti-"tudinem." The king repeats the emphatic expression: "Si *theynus sub quo rusticus est.*" Chart. Moray, 155. The theynes, however, were not employed in the collection of the king's aids and customary dues; the sheriff was the officer who was generally entrusted, and sometimes the *Earl*. Chart. Scone, 17. In two charters of Alexander II. the *firmarii* and *thayni* are put upon the same footing. Chart. Moray, 59-60. There is a charter of Walter de Berkeley, which was confirmed by William the Lion, renouncing to the monks of Aberbrothoc the dues and services which used to be paid by the people living on the lands of the *thayne* of Inverkeledor. Chart. Aberd., 85-6. In 1170 William granted to Matthew the Bishop of Aberdeen many lands, "cum omnibus *nativis* dictarum terrarum, *thaynis meis tantum exclusis.*" Chart. Aberdeen, 218. We thus see the connection of the *thaynes* with the *villeyns,* and how little the *thaynes* were as bailiffs above the villeyns who were under their management. Gillenevin, the *dapifer* or *steward* of Duncan, was *thane* of Stirling, and was a witness to a charter by Gilbert Earl of Strathearn to Malcolm, the son of Duncan the Earl of Fife. Chart. in Brit. Museum. Wood of Balbegno, a younger son of the family, who carried the *oak tree* in their escutcheon, added to his coat-armorial for a difference two *keys* appendant to denote his *office* of *thane* of Fettercarne. Nisbet's Heraldry, v. ii., part iii., 19.

(*i*) The diligence of Robertson has collected the names of almost forty thanedoms. Index to the Records, 39. He has remarked that only one of them is situated on the south of the Tay, so little understood, was peculiar to Scotland. The thane has been supposed to denote a bailiff of less, and the abthane, an officer of greater dignity (*k*). Selden, by relying on the fabulous historians of Scotland, has shown how learning may be deluded by fiction. It is nevertheless apparent, from a consideration of the records, that the first was the thane of the king; and that the second was the thane of the abbot; the first was the *royal* bailiff or steward; the second was the *ecclesiastical* bailiff or steward (*l*). The distinction between the thane and abthane arose long after the office was introduced into Scotland, from a circumstance which is distinctly marked in the chartularies, when the king granted lands to the bishop or abbot, reserving particular rights within the same lands, the royal thane attended to those lay rights, while the abthane managed the ecclesiastical rights.

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and not one of them on the south of the Forth. Fife and Kalentir are admitted to be exceptions to this rule, and perhaps Haddington might have been added to the exception. My researches have enabled me to add to the number, but not to the importance, of the *thanes;* their great numbers, within a few shires only, evince the insignificance of the thane, if the narrowness of the thanedom did not settle the fact. It is also a remarkable circumstance that the thanages lay chiefly in the shires on the eastern coast, and not in the shires on the west. The reason may have been that the kings, David I., Malcolm, William, and Alexander II., settled their manors along the eastern coast with their thanes, and not in the west, where the royal authority was not fully established till recent times.

(*k*) Titles of Honour, 2 ed., 846.

(*l*) John, the Bishop of Dunkeld, confirmed to the monastery of Scone the church of Logy Mached in Athol, "cum pertinentibus, viz., le Rath que est caput comitatus et de toto *thanagio* "de *Dulmonych,* et de toto *thanagio* del Fandufuith." This charter was confirmed by Galfrid, Richard, and Matthew, Bishops of Dunkeld. Chart. of Scone, 47-8-9, 51. John was bishop of Dunkeld from 1211 to 1214, Galfrid from 1236 to 1249, Richard from 1250 to 1272, and Matthew from 1288 to 1309. Keith. Now, Dul-*monach* both in the British and Irish signifies the *monks* Dul. There is a charter of Alexander III. granting certain easements to the abbots of Scone, which is addressed to his thanes and other good men of Dull and Ferterkill. Chart. Scone, 49. From these charters it appears that the *Abthanes* of *Dull* were not known in those early times. The district of *Dull* comprehended an extensive country, the whole or part whereof belonged to the monastery of Scone, and for this reason became distinguished by the name of *Dul-monach,* and as this was a thanage, as we have seen, before the demise of William, the thane thereof naturally acquired the appellation of ab-thane, the abbot's thane of Dull, *ab* in the Gaelic signifying an *abbot.* The *Dulmonach* of those confirmations is denominated in three charters of David II. the *ab-thanerie* of Dull. Robertson's Index, 46-53-90. MS. Harl., No. 4609-4620. There are other *abthaneries* mentioned among the lands of the bishopric of St. Andrews. Rel. Divi Andreæ, 117-121; Dal. Col., 119, 121-2. There is a very mistaken account of the offices of thane and abthane, by a person who was a lover of antiquities, without being an antiquary, in the Transactions of the antiquaries of Edinburgh, i. 185, and see the Frag. Scot. Hist., 1798, p. 39-41. Crinan, who married Bethoc, the daughter of Malcolm II., is erroneously said to have been *abthane* of Dull. Fordun, lib. iv., c. lxiii.

The thanes, then, existed at the demise of Alexander III. and at the accession of Bruce, and the abthanes equally existed at the same epoch. Robert I. granted to the abbot the thanage of Scone, which was confirmed by Innocent VI. (*m*). This great prince confirmed to the prior of Restennet the pecuniary dues which the monastery was entitled to receive from several thanages of former times (*n*). David II. equally continued the policy of thanages, as we may learn from his charters, and this policy continued a century and a half after the demise of David II., although the thanes became still more inconsiderable as the other orders of men rose in consequence.

Whether the office of thane were hereditary is doubtful. The thanage of Fordel in Fifeshire is said to have descended from the father to the son (*o*). This observation applies with still more propriety, perhaps, to the thane of Calder, whose thanedom seems indeed to have been hereditary (*p*). Whatever there may be in this conjecture the thane of Calder will live, while the dramas of Shakspeare shall continue to astonish and delight. The dimness of fact pretends not to emulate the splendour of fiction. Yet Boece, as we have seen, had some foundation in the realities of his age for the fables which he conveyed to the English chronicler who exhibited their attractions to the keen eye of that immortal dramatist.

Nearly connected with the thanes, as we have observed, were the *villeyns*, the bondmen, the nativi, who were scarcely, for ages, recognized by freedom. This sad condition of the lower order, arising frequently from war, mostly from birth, and often from consent, certainly came down from the strenuous Malcolm III. and the pious Margaret to their children (*q*). From them, Edgar,

(*m*) Chart. Scone, 31, 67-8, 112.

(*n*) Robert I. confirmed, in 1322, the verdict of an inquest finding the prior and canons of Restennet entitled, during the reign of Alexander III., "viginti solidos et decem denariis percipiendis per annum "de thanagio de thaynathayis [Tannadice], et secundis decimis omnium thanagiorum subscriptorum, "viz., de Veteri-Munross, Glaimes, Kingalveny, and Aberlemenach." MS. Monast. Scotiæ, 31. The above rights were confirmed by David II.

(*o*) Chart. Dunferm.; Frag. Scot. Hist., 40.

(*p*) See the family of Calder, in Shaw's Moray, 113-394; and Chart. Morav., 390; wherein William, *thane of Calder*, and John, *thane of Brody*, appear conspicuous among other respectable men, in 1492. MS. Harl., No. 4620.

(*q*) We have already seen how many of the wretched Northumbrians, Malcolm, during his frequent incursions, carried from the North of England into Scotland. Such was the practice of war in those times, that the prisoners who were not ransomed remained in bondage. Malcolm and Margaret gave certain *villeyns* to the monks of Dunfermline. Dalrymple's Col. App. See the declaration of David I., "De Fugitivis qui vocantur *Cumerlach*.' Fragments of Scot. Hist., App. 2. The name of *cumerlach* was given by the Northumberland Saxons to those unhappy people, from their common cry of extreme wretchedness.

Alexander I., and David I., possessed, with their innumerable manors, a numerous peasantry, who were denominated *their proper men* and who were vendible at will as their peculiar chattels (*r*). To David's manor of Horneden in Berwickshire there were annexed certain tenants called Drengs (*s*). Among the old writers there appears to have been some difference of judgment about the real meaning of *drenches*, *drenges*, or *drengi*, in our juridical customs; the better opinion, however, seems to be that they were tenants in pure villeynage who held their tenements in *drengage* (*t*). The chartularies are full of similar descriptions of servitude under the dissimilar names of *villanes, homines, nativi, servi, cottarii, captivi, bondi, bondagii, tenandii, husbandii,* who might all be bought and sold with the glebe.

This melancholy truth will distinctly appear if we run over the circumstances attending those unhappy people under the several kings of the Scoto-Saxon dynasty. Under David I., one of the most liberal of those kings, that wretched practice of enslaving an oppressed race existed in full force, as we have indeed seen (*u*). The youthful grandson of David followed his example, as to the condition of his people: Malcolm IV. granted to the monks of Newbole a salt-work, in Kalentry, with all its arable land there; "reddendo "inde *bondis meis annuatim* quatuor solidos (*x*). William, the brother of Malcolm IV., enforced those villeyn services during his extended reign (*y*). The brother of William, David, the Earl of Huntingdon, granted to Gartnach, Earl

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(*r*) Frag. Scot. Hist., App. 1; MS. Monast. Scotiæ, 107. A charter of David I., giving to the church of Dunfermline, three *servi, Ragewin. Gillepatric* et *Ulchil*, for ever. The grants of Edgar and Alexander, to the church of Coldingham, include *the men*. Smith's Bede, App. 20.

(*s*) Id. Waldeve, Comes, who succeeded Gospatric in 1166, gave to the monks of Kelso "Halden, et Willielmum fratrem ejus, et omnes liberos eorum, et omnes sequeles eorum." Chart. Kelso, 127.

(*t*) Burn's Westmoreland; Kelham's Domesday, 200; and Spelman's Glos. in vo. *Drengage*, and Ducange in vo. *Drenches*.

(*u*) David granted to the monks of Scone, "Cambusmichel cum *hominibus*, terris, et aquis," &c. Chart. Scone, 16. This charter was confirmed by Robert I. In 1144, David granted to the abbot of Kelso, "ecclesiam de Lesmahago et totam Lesmahago cum *hominibus*." MS. Monast. Scotiæ, 33. In an agreement between the churches of Eccles and Stirling, which was made before David, his son Earl Henry, and his Barons, mention is made "de Hurdmannis, et bondis, et Gresmannis, et mancipiis." Ib., 106.

(*x*) Chart. Newbotle, 183.

(*y*) King William granted, in 1170, to the Bishop of Aberdeen, various lands in Aberdeenshire, "cum omnibus *nativis* dictarum terrarum, *Thaynis* meis tantum exclusis." Chart. Aberdeen, 219-20. During the reign of William, Fergus, the Earl of Buchan, granted to John, the son of Uthred, several lands in Buchan, "cum *nativis et incolis*." King William issued a precept in favour of Mar, and his heirs, Gillechrist, the son of Gillehuygal, and two Gillechrists, and Gillen, and Gillemart, four sons of Het (*z*). Richard Morville, who was constable under William and his principal minister, granted to Henry de Sinclair, and his heirs, Edmund, the son of Bonde, and Gillemichel, his brother, with their progeny, for three marks, on condition, however, that those bondmen should not be removed from Morville's lands (*a*). During the reign of Alexander II. this common practice was carried to a great extent, as we may learn from many charters (*b*). Richard Germyn, lord of Limpetlaw, conveyed to the hospital of Soltre, Allan, the son of Tock, with his progeny (*c*). In a chamberlain court which was held "in castrum puellarum," before Alexander III. in 1278, John de Strathechin resigned into the king's hands his lands of Bethwald, with all the *men* and cottars who were then thereon (*d*).

Whether any of those degraded men regained their freedom during the long

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of the prior of Lesmahagow, "super nativos, homines, et fugitivos." Chart. Kelso, 399. William granted to the monks of Coldingham, "ne quis manu teneat *homines* monachorum." He enforced this by another charter: "de fugitivis et nativis de Coldinghamshire ut eas juste habeat prior et servientes ejus." Chart. Cold., 5. Patrick, Earl of Dunbar, gave an order, "seneschallo suo ad "deliberandum servos, nativos, prioris de Coldingham." Ib., 14. Among the charters of this ancient monastery there are "manumissiones, donationes, venditiones, et clamationes *nativorum*, cum "sequelis suis." Ib., 28.

(*z*) Chart. Ant. Bibl. Harl.

(*a*) Diplom. Scotiæ, pl. 75.

(*b*) Alexander confirmed the liberties of Hugh, abbot of Kelso; "et ubicunque extra dominia "nostra in tota terra nostra *nativos* et *fugitivos homines suos* invenerit illos sive dilatione injusta "habeat." Chart. Kelso, 7, 391. In 1232 Alexander granted to the monastery of Jedburgh two bovates of land "cum uno *villano*." MS. Monast. Scotiæ, 29. Alexander confirmed in 1231 to the knights of Jerusalem at Torphichen, all their lands and liberties with their *men* and *tenants*. Ib., 71. In 1225 an agreement was made between the monasteries of Cupar and Scone, whereby the latter granted to the former, "omnes minutas decimas et obventiones *villanorum* et *servienciem* "de Benchori, et de Kynclatyn, et de Crochin," on condition of administering the sacrament to the parishioners. Chart. Scone, 53. In the charter of Cupar, No. 16, there is a grant of Alexander to the monks, "ut quis invenerit fugitivos nativos suos de Glenylif qui sui sunt et esse debent "de jure et ratione." In 1270 Alexander granted to the Bishop of Glasgow that his men, *nativi* et *servi*, should be free of toll throughout his realm. Chart. Glasg., 239. In a convention between Andrew the Bishop of Moray [1222 to 1242] and Walter Cumyn, it was agreed "quod episcopi "et successores sui habebunt omnes *clericos* et *duos Laicos*, viz., Gillemalovock Macnakengello. "Sythach Macmallon: hos autem *Clericos* et Laicos *nativos* habebit episcopus Moraviensis et successores sui cum Catallis suis et possessionibus omnibus et liberos eorum cum omni posteritate sua et "Catalla eorundem liberorum: dominus autem Walterus Cumyn habebit omnes captivos Laicos "aliquos ejusdem terre de Logykenny et de Inverdrumyn et de omnibus aliis terris, apud Badenach, que ullo tempore ad episcopum Moraviensem spectare videbantur cum omnibus sequelis suis "et Cattalis eorundem." Chart. Morav., 52.

(*c*) Chart. Soltre, 51.

(*d*) MS. Monast. Scotiæ, 112.

wars for the independence of Scotland, cannot now be ascertained. The former law and ancient practice certainly continued. Robert I. granted to the monastery of Melrose a part of the barony of Westerker, "cum hominibus tam "tenentibus quam servientibus eorum religiosorum (*e*)." On the other hand, Robert I. confirmed in 1320, the verdict of an inquest which had been held before the chamberlain and justiciary, finding the freedom of Ade, the son of Adam (*f*). During the long and feeble reign of David II., the practice of bondage seems not to have been relaxed amidst many struggles for the freedom of the nation. Yet many *free tenants* there were during that age in North-Britain (*g*). Many of the peasantry were *bondmen* within the *English pales,* but not in the practice of the Gaelic people. The example of the king in transferring men and women and their issue, with the soil whereon they dwelt, incited the practice of his nobles and clergy. David, in the second year of his reign, granted to Sir Alexander Lindsay the thanage of Dounay in Forfarshire, "cum bondis, bondagiis, nativis, et eorum sequelis (*h*). Robert the Steward, and Earl of Strathearn, granted to Sir Robert Erskine, and Christian de Keth, his wife, all the lands of Nisbet and Edinham, "cum *tenandiis* et "serviciis libere tenentium cum *bondis, bondagiis,* et *nativis,* ac eorum se-"quelis (*i*)." In 1364, Alexander, the Bishop of Moray, repledged two of his *nativi* before the sheriff of Banff (*k*). This severe system does not seem to have been relaxed during the reign of Robert II. In the second year of his reign he granted to Marion Cardney, and to the issue procreated, or to be procreated between him and her, Weltown, and Watertown, in Aberdeenshire, "cum *nativis* et eorum sequelis (*l*)." In 1388, Adam, the Bishop of Aberdeen, granted for life, in consideration of ten marks yearly, his barony of Murthyl to William de Camera, "cum *bondis, bondagiis, nativis,* et eorundem "sequelis (*m*)." It is certain that Gilbert, the Bishop of Aberdeen, granted

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(*e*) Ib., 38. (*f*) Robertson's Index, P. S., liii.; Ib., 16. (*g*) Chart. Aberd., 807.

(*h*) Robertson's Index, 96-89. He also granted to the same Sir Alexander Lindsay the barony of Inverarity in Forfarshire, cum *bondis, bondagiis, nativis,* &c. Id. David granted for life to Brice Wych the lands of Ballech in Kinross-shire, "cum bondis, bondagiis, et nativis, dicte terre." Ib., 85. He made similar grants in Dumfries-shire. Ib., 81-91.

(*i*) Chart. Aberdeen, 807.

(*k*) Chart. Moray, 240. In the Quoniam Attachiamenta, c. lvi., there is "the Breive of Bondage," with the doctrines of *Bondage* in that age.

(*l*) Robertson's Index, 134.

(*m*) Chart. Aberd., 387. When this assedation was prolonged by Bishop Gilbert in 1402 to Thomas, the son of William de Camera, the words conveying the bondmen and their issue were omitted either by design or accident. Ib., 577.

in 1392 to William Lange, one of his canons for life, his lands of Breness, in Buchan, with the huntings, fishings, and the *nativi* (*n*).

I have thus traced, through the chartularies, the degrading practice of *villeynage*, to the commencement of the fifteenth century. Yet, the Scottish lawyers, who were not, as we have seen, in the habit of dipping into records, write on this curious subject as if such a practice had never existed (*o*).

It is a much more pleasing task to trace the progress of refinement, or the sense of justice, or the notion of propriety, which led to the emancipation of those villeyns and other bondmen. In those ancient times, a similar state of bondage existed in every district of Europe. In some of those countries, laws were made, very early, for abolishing the state of villeynage, or alleviating the condition of the bondmen. In France, an edict, for a general enfranchisement of *serfs*, was passed by Louis le Gros in 1130 (*p*). In England, we see nothing like that anxiety for individual freedom. Wicliff, following the example of Constantine the Great, was the first to declare the practice of villeynage to be antichristian. A bill, *concerning bondmen*, was rejected by Parliament, in 1536 (*q*). As late as 1574, there were bondmen and bondwomen on the royal manors in several shires of England; and Elizabeth then issued a commission for manumitting those wretched people (*r*). The national spirit put an end to the odious remains of slavery, without any legislative declaration. In Scotland,

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(*n*) Chart. Aberd., 477. In 1413, the baronies of Cowie and Durris, in Kincardineshire, were sold with the *tenants* and tenandries. Crawf. Off. of State, 192. From the many charters which have been minutely quoted under this head, we may see clearly how little foundation there was for the belief "that no example appears in the *Scottish* records of an estate sold, with the farmers, labourers, "and families attached to the soil." Hist. of Scot. from the Access. of the House of Stewart, i. 127. This was said in the face of one of the oldest records. Edgar granted to the monks of St. Cuthbert, "Paxtun, cum *hominibus*, aquis, et terris." Smith's Bede, 701. In an inedited charter of Alexander, the Stewart of Scotland, dated in 1284, he granted to John Preston his lands in Travernent, "cum *nativis* et *eorum sequela*." On the 26th of April, 1364, in a lawsuit between the Bishop of Moray and *three of his bondmen*, before the Sheriff of Banff, who held his court under the king's precept, it was decided by the *best* and *most lawful men* of the country that the said three men were "the *nativos* and "liege men of the bishop." Chart. Morav., 240.

(*o*) Craig's Jus Feudale, lib. i.; Stair's Institutes, lib. i.; MacDowal's Institutes, i. 68.

(*p*) Henault.

(*q*) There is, in the *Formulare* of Madox, a curious series of "grants and manumissions of "villains:" there is among them the enfranchisement, by Lord Abergaveney, of Andrew Borde, and his son John, villains regardant, who belonged to his manor of Dychelyng, within the County of Sussex, in 1510.

(*r*) Barrington on the An. Stat., 247-251. This practice continued longer in England than in Scotland.

neither any canon of the church, any assize of the king, nor any act of Parliament appears in favour of freedom (*s*). Throughout the thirteenth and fourteenth centuries, there appear several distinct manumissions, by particular kings (*t*). But, these releases from slavery only show the general principle. The courts of justice appear to have been sufficiently favourable to the claims of liberty. But it was the superior ecclesiastics who undoubtedly granted the greatest number of manumissions, upon salutary terms, to both parties (*u*). It is, indeed, apparent from the chartularies, that many of the villeyns were admitted by the bishops and Abbots to be their tenants, yielding specified services, and paying certain rents. This favourable change gradually took place during the fourteenth and fifteenth centuries. Even Barbour, like Wicliff, could cry out, in his life of Bruce, "How FREDOM is a nobil thyng." Long before the days of Craig, the feudist, who died in 1608, *bondage* had become obsolete in the law of Scotland (*x*). All vassalage and servitude in

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(*s*) The statute of William, c. viii., indeed, ordains the pain of him who detains another man's "bondman." The laws of the Burrows are more favourable; by them, ch. vii., any bondman, except the king's, who dwelt for a year and day within a burrow was entitled to freedom. In the *Regiam Majestatem*, which I have shewn not to be so old as the accession of Robert Bruce, there are four chapters respecting bondmen. "Of native bondmen proclaimed to liberty." B. ii., ch. ii. "Be what way "ane man may come fra servitude to libertie." Ch. xii. "Bondmen sould not be promoved to halie "orders." Ch. xiii. "Of the manumission of bondmen." Ch. xiv. In the *Quoniam Attachamenta*, ch. lvi., which is still more modern, we may see "the breive of bondage," which shows the law on this subject during the reign of James I.

(*t*) David II. granted freedom to William the son of John, a bondman on his thanedom of Tannadice. Robertson's Index, 89. The same king granted liberty to his bondman, Maurice Miller. Ib., 47; and he also manumitted John Latoren, his bondman. Ib., 66.

(*u*) Matthew the Bishop of Aberdeen not only granted freedom to William de Tatnell, *his man*, but leased to him in heritage two carucates of land, paying one pound of incense and one mark of silver. This was confirmed by William the Lion and by Hugh the successor of Matthew. Chart. Aberd., 283-99. Walter the Bishop of Glasgow released the servitude of Gillemichael the son of Bowen, and Gillemor his son, and Bur. and Gillys. the son of Eldred, whose freedom he recognised before honest men. This release was confirmed by Alexander II. in 1200. Chart. Glasg., 237. John, who became Abbot of Kelso in 1160, and possessed many bondmen and bondwomen in right of his house, granted half a carucate of land in Middleham to *his man* Hosbern, he having become his man and agreed to pay yearly eight shillings. The same Abbot granted to *his man* Walden the eighth part of Currokis, he paying for it half a mark yearly. The same Abbot granted to the same Walden *his man* the third part of Auchenleck, paying for it yearly two shillings and threepence. Chart. Kelso, 110-14-16-467. Villeyns were sometimes permitted to change their masters by a formal grant. Robertson's Index, 53; Frag. Scot. Hist. The practice of villeynage was more general in South than in North-Britain. Walsingham says that some of the greater abbeys in England had about 2000 villeyns. Hist., 258.

(*x*) Yet the bondage of colliers and salters was enforced by the 11th Parl. James VI., c. 11, in 1606.

North-Britain, were roughly abolished by the legislative usurpation of Cromwell's Parliament (*y*). Of that sort of *bondage*, which was called *manrent* in the law of Scotland, I have not seen an instance during the Scoto-Saxon period. It arose, probably, during the anarchical reign of David II., and continued, notwithstanding the prohibition of several acts of Parliament, even below *the restoration* (*z*).

Thus much, then, with respect to persons. It is at length time to advert to *things*, as they were regarded by the laws of North-Britain, from the demise of Donal-Bane to the accession of Robert I. In England, a little code of written law was handed down by Alfred to *the Confessor*, was confirmed by *the Conqueror*, and was restored by Henry I. (*yy*). In Scotland, nothing like a code of *written* law was transmitted, by the progenitors of Malcolm III. to him, or by the latest of the *Celtic* kings to their children, if we except the fictions and impositions of the middle ages (*zz*). Neither Edgar, nor Alexander I. appears to have left any written laws. Their immediate successor is the first of the Scottish kings who transmitted *assizes* (*a*), and other written laws, which were long remembered by the people as beneficial legacies, and which, perhaps, the Scottish nation, even to this day, regard with veneration. We have no intimation that Malcolm IV. added any written laws to the assizes of his grand-

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(*y*) Scobel, 1654, ch. ix. (*z*) Lord Stair's Inst., 19.

(*yy*) Hale's Hist. Com. Law, ch. i.; Blackst. Com., iv. 412; Kelham's Laws of the Conqueror, Prel. Disc., p. 5.

(*zz*) See proofs of the spuriousness of the Macalpine laws of the LL. Malcolmi, of Mac-Beth's laws of the Code, which is attributed to Malcolm-Ceanmore. Book iii., ch. 9. The late Lord Kames improperly quotes the LL. Malcolmi in his *Statute Law Abridged*, though he showed in his *Essay* on *British Antiquities* that those laws must be referred to some late era. Spelman had delivered the same opinion before him. The late Lord Hailes subsequently demonstrated that the *leges Malcolmi* are a despicable forgery. The late Dr. Gilbert Stuart, after making use of the LL. Malcolmi as genuine, pronounces them to be spurious. Pub. Law, p. 152. They are still more strongly condemned by their anachronisms and absurdity. How unfit, then, to introduce such despicable forgeries into the *Statute* law!

(*a*) The earliest name of an English statute was *Assiza*, or an *Assize*, as we may learn from Madox's Epist. Disc. to the Dialogue of the Exchequer, 6. The statutes of David I. were called *Assizes*. There is an *Assize* of David in the Chartulary of Moray, as Lord Hailes has shown. Examin. of Reg. Majest., p. 15. The charter which William the Lion conferred on the Burgh of Inverness speaks of the *Assize* of David, his grandfather. Wight on Elections, p. 411. The statutes of William were called *Assizes*. Skene's Old Laws. We see then that this term *Assize* was borrowed from the English practice. The statutes of King William refer to "the custom and law "made by King David." Id. The Ordinance of Edward I,, in 1305, calls for the laws of David. These facts, therefore, are full proof, as far as we can trust the supposed statutes of William, that David I. left written laws. The *leges Burgorum* are undoubtedly the legislative acts of David I., as we may learn from records.

father. William the Lion, as he lived long, transmitted many statutes, if we may determine from the inaccurate publication of Skene, from older collections (*b*). The *Forest Laws* are also attributed to William, by the same unfaithful publisher of those ancient capitularies (*c*): yet, anachronism seems to claim them for a less dignified author of later times. The statutes which the same publisher has assigned to Alexander II., are equally suspected of unfaithfulness (*d*). Jurisprudence and history have both sufficient cause to lament that inaccuracy and interpolation should have so much mingled with those ancient compilations, which have been made to assume the place of positive statutes.

There is, however, a collection of laws entitled the *Leges Burgorum*, which have been attributed to David I. on surer grounds (*e*). Yet, those laws are declared by Lord Hailes not to be altogether free from the doubts which involve the ancient laws of Scotland, as they have been published by Skene in a suspicious cloud of unconquerable scepticism (*f*).

(*b*) Lord Hailes declares "there is reason to believe that the laws of William are not altogether "genuine, and without interpolation." An., i. 142. The statutes of William have undoubtedly in their context and detail a very suspicious appearance of more modern compilation. The Berne collection of the *leges Scotiæ* contains some of the assizes of William which are in Skene, and some which are not. The statute of Alexander II., ch. 14, as it is assigned to that king by Skene, was certainly made by William, in 1180. Berne Collection.

(*c*) Skene's Old Laws.

(*d*) Lord Hailes's An., i. 161; and there is a cloud of suspicion which hangs over the whole statute laws of Scotland, previous to the Acts of James I.

(*e*) There is a charter of William, 1176 A.D., to the Burgh of Glasgow, which speaks of the *Assizes* of his burghs, Chart. Glasg., 73. This charter proves that the *LL. Burgorum* were then in existence. Malcolm IV. does not claim any legislative honours; and those *Assizes* of the burghs were consequently enacted by David I. See the charters of Inverness in Wight on Elections. The Berne collection of the "Leges et *consuetudines* quatuor Burgorum," which contains 54 chapters, may have contained a few more when it was perfect. Among the records which were carried away by Edward I., there were several rolls "de legibus et assisis regni Scotiæ "et de legibus et consuetudinibus Burgorum Scotiæ & de quibusdam statutis editis per reges "Scotiæ." Ayloffe's Cal., 335.

(*f*) An., i. 89. The *Burgh Laws* are said by the publisher, in A.D. 1609, to have been made by King David I., at the Newcastle upon the water of Tyne. Skene's Old Laws, p. 118. But this position cannot possibly be true, as David never possessed Newcastle. That David I. made some *Burgh Laws* seems pretty certain; but the *Burgh Laws* which are assigned him by Skene bear upon the face of them a much more modern air than the early age of David I. could properly exhibit. In several of the law collections in the Advocates Library at Edinburgh, which are entitled *Regiam Majestatem*, the *Burgh Laws* are called "Leges quatuor Burgorum, "Berwick, Roxburgh, Edynburgh, et Stryvelin," constitute per regem David *primum*. W., 4, 5;

In this cloud, and in those suspicions, are peculiarly involved the well-known code which is entitled *Regiam Majestatem*, from the first two words of this juridical tract. It is an undisputed proposition that this treatise and the book of *Glanvill* are not both original works (*g*). The greatest of the English antiquaries and lawyers, Spelman, and Hale, have insisted that the Scottish code was copied from the English. Some of the most judicious of the Scottish jurists, such as Craig, and Lord Stair, have given it as their opinions, that "the "Regiam Majestatem is *not* a book of the Scottish law (*h*)." Other Scottish antiquaries and lawyers have said indeed, that the *Regiam Majestatem* is a book of the Scottish law, and was compiled, if not by the pen, at least in the age of David I. The late Lord Bankton revived the controversy on this curious subject, by insisting in an elaborate argument that the *Regiam Majestatem* is certainly a book of Scottish law (*i*). This produced, though not professedly, "The Examination of some of the Arguments for the High Anti-"quity of Regiam Majestatem," by the late Lord Hailes (*k*). This Dissertation, which was intended to prove that the disputed treatise is a modern fabrication, brought other disputants upon the stage who did not always controvert what they were unable to confute. The charge of frequent anachronism, as it must for ever remain unanswered, will always consign the *Regiam Majestatem* to modern fabrication as peculiarly its own.

It will be found perhaps that none of the opinions which have been given on either side are perfectly correct. Of the *Regiam Majestatem* there are several manuscript copies of the fifteenth century, though not one manuscript which perhaps contains this treatise alone (*l*). The *Regiam Majestatem* was first published by Sir John Skene in 1609, as it has always appeared in manuscript as one Tract of a Collection of several Treatises on the Scottish Law.

A., 1, 28, &c. The word *primum* is an obvious interpolation. The numbers of the chapters also differ. In the MS. collections, the list of chapters extend to one hundred and sixteen; but the list is extended in Skene's publication to one hundred and forty-three chapters. Lord Hailes's Examin., 5. The *Leges Burgorum* cannot be doubted as a genuine code. In a law-suit before the Keepers of the realm of Scotland, at Edinburgh, in 1291, it was held that, according to the custom of the burrows, dower was a preferable debt. Ryley's Placita, 146-7. Nothing, then, remains but by collation of various copies of the *Leges Burgorum*, to ascertain the true text.

(*g*) Lord Hailes's Examin., p. 1.

(*h*) Craig, b. 1, tit. 8, s. 7; Stair's Institute, p. 13; and also Profess. Bayne's Notes, p. 3.

(*i*) Lord Bankton's Institutes.

(*k*) It was printed at Edinburgh, in 1769.

(*l*) I have before me very full and accurate MS. notes of no fewer than eleven copies of the *Regiam Majestatem*, which are preserved in the Advocates' Library at Edinburgh.

Lord Hailes has demonstrated that Skene was a careless and unfaithful editor (*m*).

But accuracy was not the passion of that age. Abacuk Bisset, who, as he was secretary to Skene, was bred at the foot of Gamaliel, has given an account of the manner, time, and place, of the compilation of the *Regiam Majestatem*, with all the precision of certainty and all the confidence of conviction (*n*). According to Bisset's representation, David I., like another Justinian, sent out messengers to collect from the jurists of every nation materials for an institute, which he dictated at Newcastle. The first part of this account is confuted by its own folly; the second is exploded by the context of the code. The *Regiam Majestatem* in speaking of those who dwelt in Lothian, considers them as living *beyond* the water of Forth (*o*). It speaks also of any one dwelling *beyond* the water of Spey in Moray or in Caithness (*p*). From this mode of speaking, it appears to be certain that this work was composed somewhere in the very heart of proper Scotland, and the place of its compilation was probably Perth, the town where a convention met in 1305, to choose delegates to enable Edward I. to give laws to the Caledonian countries (*q*).

David I., however, was a law giver. Like other contemporary kings, he certainly made assizes with whatever assent and assistance. He is said to have enacted the *Statuta Burgorum (r)*. Like the laws of Edward the Confessor, the laws of David I. were remembered and called for at the conclusion of this period, one hundred and fifty years after his demise (*s*).

(*m*) Examin., p. 1-10. Sir George Mackenzie had before shown the unfaithfulness of Skene as an editor of the Scottish law. Observ. on the Acts of Parliament, p. 94.

(*n*) MS. Rollment of Courts, Pref.

(*o*) Skene's Old Laws, p. 14-75.

(*p*) Ib., 9-14.

(*q*) Ryley's Placita, 279.

(*r*) In the interpolated work called *Fordun's History*, i. 301, it is said, on the authority of Aildred, who wrote the contemporary panegyric of David, that this monarch made the *Statuta Burgorum*. This position, however, must be deemed an interpolation, whether we consider the work of Aildred, or the Chronicle of Fordun, as it was published by Hearne. Lord Hailes's Examin., p. 11-18.

(*s*) Ryley's Placita, p. 506. Edward I., who mentions the laws of David in his ordinance for the government of Scotland, did not himself know anything of the laws of David. He was no doubt instructed in that point, as he was in many others, by the Bishop of Glasgow, Robert Brus, and John Moubray. Ib., 243. It appears by the Calendar of ancient charters, p. 329-335, that there were carried away by Edward I., among other records, several rolls of the laws and *assizes* of the kingdom of Scotland; several rolls of the laws and customs of *the Burghs*; a roll of ancient *statutes*, which had been made by the kings of Scotland. Yet nothing more can be inferred from those facts, except that in 1292, there existed several rolls of assizes, statutes, and customs which had been enacted by the kings and their councils in Scotland.

Yet, it does not follow from the foregoing facts, that David I., any more than Henry II., or Edward I., ever compiled a code, or formed a system of laws. Neither Aildred, the panegyrist of David, nor any writer of that age allude to the *Regiam Majestatem.* It is never mentioned in any of the juridical proceedings, with regard to the competition for the crown. It is not alluded to by the estates of Scotland, when they studiously reserved their rights, liberties, and laws, in the marriage contract of *the Maiden of Norway;* nor is the *Regiam Majastatem* ever recollected during the parliamentary proceedings of Edward I., when he acted as paramount legislator of Scotland (*t*).

(*t*) See Rym. Fœd. and Ryley's Placita. Owing to the liberality of the Curators of the Library at Berne in Switzerland, and to the friendliness of M. F. Frendenrich, one of the nobles of that city, I have been favoured with the inspection of a manuscript collection of ancient laws which has been preserved in that valuable library since the age of Cromwell, when that juridical treasure was purchased in England and transferred to Berne. It contains a very good copy of Glanvill de legibus. It preserves a copy of the Border Laws in 1249, which were published by Bishop Nicholson under the title of *Leges Marchiarum.* It contains the *Brevia* or English writs. It also comprehends a fine copy of the *Statute of Merlebridge.* These occupy the greatest part of the volume. Then, "Incipiunt leges Scotie ; et primo, de catallo furato, et calumniato, de calumpniatoribus et calumniatis, "de warrantis, et diversis, lacis ubi calumniatores et calumpniatos et waranti debent convenire et "conveniri ; et quid juris sit, si warantus noluerit convenire ad warrantizandum, et si warranti fuerint "in Ergadia vel in Kentire, quid faciendum facerit." That intelligent lawyer, Mr. Luders, who has carefully inspected this collection of laws, informs me that this very valuable MS. appears from internal evidence to have been written in the reign of Henry III. From a comparison with the specimens of ancient hands in Casley's Catalogue and in Ayloffe's Calendar, the manuscript seemed to me to be of the reign of Edward I. There is positive proof that it is older than the year 1306. Between the *Leges Scotie* and the *Leges Burgorum* there had been originally left a vacant space, and into this space there appears to have been written subsequently in a different hand the following insertions: "Memorandum—quod Willielmus *Bercator* reddidit compotum die dominica proxima ante festum sancti Andreæ, anno gracie MCCCVI et eodem die . . . et VII oves matrices de quibus debit ad compotum suum."

Item—eodem die Johannes *Bercator* de Malk . . . reddidit compotum suum et eodem die capit XL dynmuerdys et VI oves et centum hoggys et ; de quibus debit ad proximum compotum suum. Here, then, is the date of the above memoranda, when they were made by some steward of a manor in A.D. 1306. Now, this date, with the accompanying circumstances, fix the writing of that MS. Collection to have been *before* the demise of Edward I. and the accession of Robert Bruce.

Yet, although the collector had copied *Glanvill*, and had brought together the *Leges Scotie*, there is not an intimation of his having had any knowledge of the *Regiam Majestatem* as a code. The compiler has, however, collected no fewer than thirteen distinct heads of law, though not in any regular series, which correspond, though not accurately, with the following chapters in Skene's *Regiam Majestatem*, namely, Book i., ch. 16, 17, 18, 19, 20; Book iv., ch. 14, 15, 16, 17, 18, 19, 20, and 36, with regard to *Cro*, which Skene declares *not to be genuine.* The former are all in the Latin language, the last chapter is in the law French of that age. The interesting MS.

From those intimations, it seems to be sufficiently evident that the *Regiam Majestatem* was the work of a subsequent age to the reign of David I. Some of the manuscripts of that code refer expressly to Richard de Lucy, who died, the Chief Justice of England, during the year 1179. The text of almost all those manuscripts speaks loudly of Glanvill, who lived after David, although Skene transferred that fatal name from the authentic text to the supposititious notes (*u*). The composition of *the Regiam Majestatem* appears to have been of a later age than either Glanvill or Lucy. The loquacious text speaks several times of the *Decretals* of Gregory IX., who died in 1241. Yet Skene attempts to suppress the instructive voice of truth (*x*). The genuine text quotes the *Decretals* of Boniface VIII., which were not published till 1298 A. D.; yet Skene tries to perplex what he cannot conceal (*y*). Thus, anachronism fixes the true date of this interpolated code to the late commencement of the fourteenth century. The whole context of the *Regiam Majestatem*, indeed, represents the law of Scotland to have been in the uninformed age of David I., what the law undoubtedly was in England during the enlightened reign of Edward I. (*z*). Among fair inquirers, who love truth better than system,

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volume contains the "Leges et consuetudines quatuor Burgorum, Edinburgh, Rockisburgh, Berwic, "Strivelin, constitute per dominum David regem Scotie." There is a pretty regular series from ch. 1 to 54 of Skene's Collection, which has some interpolations. The MS. seems to have lost two or three folios or more at the end. It contains also some very curious laws which are not in Skene, and it corrects several of his mistakes and interpolations. The notices of this MS. collection furnish additional proofs that the *Regiam Majestatem* was unknown in the age of this manuscript, at least to that curious collector. The very first head of the *Leges Scotie* in the Berne collection says, "Statuit "dominus rex quod catallum adducatur ad locum in quolibet comitata ubi *Rex David* constituit," &c. The law of David is again referred to by the constituent *Dominus Rex*. David, then, could not have been the enactor of this *capitulary*.

(*u*) L. Hailes's Examin., p. 7-9. (*x*) Ib., 9. (*y*) Ib., 10.

(*z*) It were easy to prove that the law of Scotland during the Scoto-Saxon period was different in *fact* from the *theory* of the Regiam Majestatem. (1.) *Heritage* cannot be devised by *testament*, saith the Reg. Maj., B. ii., ch. 18, 37, s. 5; yet William de Moreville, the Constable of Scotland, who died in 1196 A.D., devised *heritage* by *testament*. Chart. Melrose, 133. I did also see, saith Sir James Dalrymple, Col. 348, a confirmation by P. Alexander III. to Gervase Riddel, of the lands which his brother had left him by *testament*; and see to the same purpose, Chart. Kelso, 323-4 and 282; Chart. Cupar, 36; Chart. Balmer., 7. (2.) John Comyn, Earl of Buchan and Justiciary of Scotland, presented a petition to Edward I. in Parliament, stating that, by the law and usage of Scotland, the overlords had a right to the keeping of the lands of idiots who were their vassals, and therefore praying that the lands of Rauf de Lasceles, an idiot who held of him, should be delivered to his charge as the idiot's superior. The king referred this petition to his *locum tenens* in Scotland to report the law and usage. Rolls of Parliament, i., 471. In that age the law of England was laid down by Fleta exactly as it was stated these apparent anachronisms must fix the true epoch of the *Regiam Majestatem* to the fourteenth century. Accurate reasoners will not easily believe that a country which did not enjoy the help of lawyers could have given a juridical volume to a people who enjoyed the benefit of law as a science (*a*).

But though the date of the compilations may be thus settled, the hand of the compiler is still uncertain. Intelligent men who may have been convinced of those truths, have supposed the *Regiam Majestatem* to be the unauthorized production of a private lawyer; to be the mere copy of a despicable plagiarist (*b*).

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to be in Scotland by the Earl of Buchan. Blackst. Com. Ed. Christian, i. 302; Jacob's Dict. Ed. Tomlins, in vo. Idiots. Now, the Reg. Maj. B. ii., ch. 46, states the law of Scotland in contradiction to the Earl of Buchan, and as it was subsequently altered in England by 17 Ed. II., ch. 9. The Chartularies show the law to be very different from what it is stated in the Regiam Majestatem, B. iii., 25, Anent Kirklands before the judge ecclesiastical, and anent the lands of vassals which should not be adjudged in the courts of their overlords. Chart. Aberdeen, 407-420.

(*a*) During the age of Glanvill the law of England had been already formed into a system. That clause of the great charter which required the courts of justice to be stationary was of great importance to England, because this circumstance soon produced a body of lawyers who elaborated the law into a science. I have looked unsuccessfully for lawyers in Scotland during the Scoto-Saxon period. The pleadings of the competitors for the crown of Scotland were plainly drawn by English lawyers. The bishops and other dignified clergy in Scotland were no doubt canonists and civilians, but they were not municipal lawyers. At the recent establishment of the Court of Session they had not in Scotland a regular body of municipal lawyers. See the printed catalogue of the Lords of Session, p. 1-3, whereby it appears that most of the earliest lords were what the English judges once had been, mere churchmen. There was, indeed, a Dr. John Gladstaines appointed a lord of session in 1542, who was entitled *Licentiatus in legibus*, and is called *my Lord Doctor*.

(*b*) Sir George Mackenzie declares the Regiam Majestatem to be the work of a private lawyer. Institutions, p. 4. The late Mr. John Davidson, the intelligent deputy keeper of the signet, gave it as his opinion that the Regiam Majestatem is an inartificial copy from Glanvill by a plagiary pen. Observations on the Regiam Majestatem, p. 15. The notions of Mackenzie and of Davidson are too narrow. Glanvill was, undoubtedly, in the view of those who made the first sketch of the disputed treatise. But the lawyers who assisted in that work had before them the whole code of English law as it stood enlarged and improved at the conclusion of the long reign of the law-giving Edward I. The oldest manuscripts of the Regiam Majestatem which are at present known are not older than the beginning of the *fifteenth* century, according to the opinion of the late very skilful Mr. William Robertson, one of the intelligent keepers of the Records in Scotland. Note on the Introduction to an Index of the Records, p. xxxvi. The MSS. of the kindred tracts of Scottish law, which were published in the same volume by Skene, are still more recent, and were all compiled after the accession of Bruce, within the period of record, and consequently within the time of memory. The oldest of those MSS. then, were written a century after the date of the ordinance of Edward I. for the government of Scotland. Erskine, indeed, in his

But plagiarism did not in that age exist. There was not in North-Britain, at that epoch, any lawyer who could have compiled a juridical treatise containing so much Scottish and English, and Canon and Civil law, as appears in the *Regiam Majestatem;* and we must, therefore, look for some more adequate compiler, who might gain the public suffrage by his more probable pretensions.

To the genius of Edward I., rather than to the pen of David I., may be more justly referred the juridical compilement of the *Regiam Majestatem.* It was Edward I. who, in 1305 A.D., made the *Ordinatio super stabilitate terre Scotiæ.* It was in this memorable ordinance that the English Justinian ordained: "That his Lieutenant should, immediately on his arrival in Scotland, assemble "the good people of the land in some convenient place; and that in their "presence he should read the laws which King David had enacted, and also "the amendments and additions which had been made by his successors; "that the Lieutenant, with the assistance which he shall then have, as well "English as Scottish, shall amend such of those laws and usages as are "plainly against the dictates of God and reason, as they best may in so short "a space, without consulting the king; and as to such matters as they cannot "correct of themselves, that they put them into writing, by the common assent "of the Lieutenant and the good men assembled, to be laid before the king "at Westminster, under the Lieutenant's seal." In that famous ordinance, then, we may perceive the true origin of the *Regiam Majestatem!* A sketch of the old laws of Scotland was drawn by the Lieutenant, with the assistance of the English lawyers, who then accompanied him (*c*); it was, no doubt, corrected by some of the Scottish clergy who then attended the assembly; and the

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Institutes of the Law of Scotland, p. 6, says that the *Regiam Majestatem* was written by a private lawyer at the command of David I. If he had been asked for his authority he must have answered that for such a position he had none. In fact, we have now seen, in the Berne collection, that a dozen chapters of the *Regiam Majestatem* did exist before the year 1306 at least, as distinct heads without reference to any code.

(*c*) By the ordinance of Edward, Scotland was divided for the administration of justice into four districts with two justiciaries in each; and of these two, one was an English lawyer, John de Isle, who was appointed one of the justiciaries of Lothian, had been a judge of assize in 1292 and a baron of the Exchequer in 1298; William Inge, who was appointed one of the justiciaries between the Forth and the Mountains, had been Attorney-General in 1292, Justice of Assize in 1293, and became Judge of the Common Pleas in 1315, and Chief Justice of the King's Bench in 1317; John de Vaux, who was appointed one of the Justiciaries beyond the Mountains, had been a Baron of the Exchequer in 1298, and became Judge of Assize in 1311. See Dugdale's Chron. Series, and L. Hailes's An., i., 284. Such were the English lawyers who assisted in compiling the *Regiam Majestatem!*

compilation thus corrected and enlarged was afterwards transmitted to Edward I. as the formal return to his legislative precept. A copy was, probably, retained in Scotland by some of the Scottish clergy who were active in its compilation; and this copy, as it was preserved in some of the monasteries, was discovered in subsequent times, when it was doubtless new-modelled by innovating zeal and interpolated by unfaithful transcription (*d*). During the effluxion of a hundred and twenty years the *Regiam Majestatem* came to be considered by the Parliament as one of the books of the Scottish law (*e*). In 1469 the Parliament again directed that the king's laws, the *Regiam Majestatem*, the acts, statues, and other books, should be put into a volume and authorized, and all other collections of law destroyed (*ee*). Yet those directions of Parliament could not convert fiction into fact, though the legislature might have declared such a volume to be law.

The only genuine sources of written law in Scotland during the Scoto-Saxon period are to be found in the charters of the kings in the chartularies of the monasteries and in the Berne Collection. The charter of David I., which granted Annandale to Robert Bruce, conveyed to him the *jus gladij* over that extensive country. By this grant we see that a supreme jurisdiction was conferred on that powerful baron; yet this sort of holding is scarcely noticed by the writers on the law of Scotland. The charter of David was confirmed by his grandson William, with a reservation, however, of the four pleas of the crown (*f*). The origin of *Tenures* in North-Britain may be traced in the

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(*d*) (1.) The First Chapter of the Regiam Majestatem is obviously an interpolation. (2.) In Chapters 1-5, &c., it speaks of the king's *Juticiar* in the singular; but from the records it appears there were two Justiciaries, one in Lothian, and one in Scotland, and for a while one in Galloway. Neither was there any *Justiciary* in North-Britain during the reign of David I. (3.) In B. i., ch. 17, it speaks of the *Abbot* of *Glendocheroch*; the zeal of Abacuk Bisset tried in vain to discover such a personage or place; there is in Perthshire, indeed. a valley called *Glendochart,* which is an elongation of Glenlion, and is the great passage from Perthshire into Argyle. But there never was any Abbot of Glendochart. The Berne Collection also speaks of the Abbot of *Glendrochard.* The very different statements of that collection show the interpolations of Skene's publication.

(*e*) 1425 A.D., 3 Parl. James I., ch. 54.

(*ee*) Robertson's Parl. Record, 157. The compilers of the Statutes seem not to have regarded this direction as an act of Parliament. This direction seems, however, to have been obeyed; and from this epoch of 1469, many copies of such a volume appear to have been made which still remain in the Advocate's library in the British Museum, and in the Lambeth Library. In 1487, the parliamentary direction of the year 1469 was enforced by 14 Parl. Ja. III., ch. 115.

(*f*) The original charter of David is in the British Museum; the charter of confirmation is published in Ayloffe's Calendar. See Cowel in vo. *gladius* for the legal meaning and effect of the *jus gladij.*

charters of the kings and of their *subjects-superior* during the Scoto-Saxon period. In the chartularies of religious houses may be seen the nature of the royal revenue which arose incidentally from the proceedings of the courts of justice and also from ancient custom. From those chartularies also may be learned the ecclesiastical law of Scotland during that age much more accurately than from the juridicial tracts of the Scottish writers (*h*). Some of the *assizes* of the ancient kings may be gleaned from the Chartularies, and still more from the Berne collection which also corrects the *auld laws* of Skene (*i*). From those intimations it is apparent that, were the juridical notices arranged which might thus be collected, they would furnish a satisfactory account of the written law of Scotland as it existed from 1097 to 1306 A.D., without any reference to the collections of Sir John Skene and Sir James Balfour, whose inaccuracies and prejudices render them unworthy of trust.

It was the original penury of the written law of Scotland which made an opening for the canon and civil laws (*k*). It was the common law which successfully resisted the introduction of the civil and canon laws into England. But in Scotland the common law had no existence. The year 1236 forms the juridical epoch, when the English barons declared that they would not change

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(*h*) Hope states, mistakingly, in his Minor Practicks, p. 88, that before the Reformation the Pope was counted the universal patron of all the kirks of Scotland. Even Prynne, iii. 667, and Ryley's Placita, 613, might have shown the intelligent Hope and his learned Commentator that the law of Scotland never was, as they state it to have been, before the Reformation in 1560.

(*i*) The Berne Collection contains the assize "de aquis et ut filum cujuslibet aque sit liberum," which Skene, ch. 16, attributes to Alexander II., and which the late Lord Hailes has honoured with a Commentary. Ann., i. 340. But this copy of the assize does not mention the name of the king who enacted it. In the same Collection there is an assize, "ut nullus eat de nocte nisi tribus de causis," which was made at Aberdeen forty days after the coming of Vivian, the legate, into Scotland [1177]: this, therefore, is an assize of William. There is in the same Collection an assize which was made at Stirling on Monday next, before the feast of St. Margaret, the Virgin, next after the first coronation of Philip, King of the French [1179-80 A.D.]. This, then, is an assize of William, which is transferred by Skene to Alexander II., ch. 14. See Lord Hailes's An., i. 161. In the same Collection there is an assize, "de calumpniatoribus et calumpniatis," which was made at Perth on Thursday next before the feast of All Saints, in the year wherein the Duke of Saxony first came into England [1184]: this, therefore, was an assize of William, who therein refers to the *usage* and *assize* of David. This Collection also contains some very curious adjudications during the reign of William the Lion.

(*k*) Mr. Prof. Bayne's Notes, p. 2. It appears, he adds, that the civil law was known here in 1234, from an authentic proceeding which is recorded in the Chartulary of Paisley. He alludes to the article No. 274 in that Chartulary, "*Inquisitio terrarum de Monachkerran;*" and it was the claim of the abbot to the lands which belonged *de jure* to the *church* of Kilpatrick. We see, then, that it was an *ecclesiastical* cause.

the laws of England, which had been hitherto used and approved. In Scotland, the penury both of written and unwritten law supplied the nobles with no municipal system whereon to place their jurisprudential confidence. The canon law, which was interwoven into the same web with the civil law, was introduced into North-Britain as early as 1242 A. D.; and before the year 1269, was formed into a regular code (*l*). In subsequent times, the *civil law* was declared by several Parliaments to be *the common law* of the realm (*m*). The year 1249 may be deemed the memorable epoch, when the barons of Scotland formed the design of opposing the encroachments of the Scottish clergy, and of incidentally resisting the intrusion of the laws, which the ecclesiastics delighted to study (*n*).

In England, the Saxon people transmitted to their posterity the common law, which stood the shock of the Norman innovations, and came down, through the favour of the people, to the present times. In Scotland, the mixed inhabitants have never enjoyed the benefit of *the common law* (*o*). In England, there have always prevailed special customs in particular districts; such as the customs of *gravel kind* and *borough English.* In Scotland, similar customs have never existed (*p*). The usages of the Scots and the Britons, which Edward I. endeavoured to abolish by a legislative ordinance, gave place, in the slow progress of revolutions, to the change of manners. A similar observation may be made with regard to the usages of the Flemings, who colonized Scotland during the twelfth century. They settled chiefly along the east coast, in such numbers, as to be found useful; and they behaved so quietly, as to be allowed the practice of their own usages, by the name of *Fleming-lauche,* in the nature of a *special custom* (*q*).

(*l*) Lord Hailes's Publication in 1769.

(*m*) Ja. IV., Act 79; Ja. VI., Parl. 8, ch. 131; these statutes are sufficient proofs of the penury both of the written and unwritten laws of Scotland in those times.

(*n*) Lord Hailes's An., i. 163-342; Canons, No. xliii.

(*o*) For proofs of this position see Book iii., ch. ix. Hales's Hist. of the Common Law, p. 60; and yet the canon and civil laws continued to be quoted in the English courts of justice as late as the demise of Edward I., as we are assured by Selden in his learned *Dissertation on* FLETA. Kelham's Edit., ch. 8, s. ii.

(*p*) There did exist in Scotland a sort of *copyholders* till the estates of the church, and the church herself, were swept away by statute after the Reformation. The tenure of lands under the church was very mild and very liberal, as we may learn from the Chartularies. In the bishoprick of Glasgow, according to *the custom of St. Mungo,* the widow of a tenant *on the bishop's rental* was entitled, while she remained single, to hold her husband's lands for life. *This custom* was sustained by the Court of Session as late as 1633. MS. Bisset's Rollment of Courts; Balfour's Practiq., c. 44.

(*q*) See the charter of David II. to John Mar. Robertson's Index, p. 61.

We have thus seen that there is an equal *penury* of the unwritten, as of the written laws in North-Britain (*r*). "The introduction of the *Feudal* law into "Scotland," says Lord Kaims, "is an event, which makes not such a figure in "our history as it ought to do" (*s*). But it could not make any figure till it existed. Its origin was obscure, and its progress was slow and imperceptible. Nor is there any trace of any proclamation, assize, or statute, for introducing the notion of *tenures* into the law or practice of Gaelic Scotland (*t*).

It is pronounced by Lord Kames, as a certainty, "that the feudal customs, "in England and in Scotland, were precisely the same for a century or two "after the days of William the Conqueror" (*u*). This position requires stronger proofs than hardy assertion to support it as probable. It was as late as 1085 A. D., that William the Conqueror obtained the consent of his great council to an act, requiring that all lands should be placed under the yoke of a military tenure (*x*). From this legislative act, there resulted, as a necessary consequence, which became a fundamental principal of English tenures, that the King is the original proprietor of all lands, and that of course every legal title must be derived from him (*y*). In Scotland there cannot any

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(*r*) The late Dr. Stuart attributes that *penury* to the want of *antiquaries*, more than to the defect of *records*. Pub. Law, 2. It did not consist with his system to attribute *that penury* to the recent existence of the municipal law in North-Britain.

(*s*) Essay concerning British Antiquities, p. 1. When Edward I. conquered Wales he insisted that it had always belonged to England *jure feudale*. Barrington thereupon expressed his belief "that no instance could be found in any record or ancient historian of a *jus feudale* "prevailing in England." Observ. on the more Anc. Stat., p. 93. This remark applies still more strongly to Scotland. In the Scottish law we hear of *fees*, of *feudal* jurisdictions, and of *feudal* property; but of a *regular system of feudal law* there are but very slight traces. The agents, with Baldred Bisset at their head, whom the Scottish nation sent to Rome to vindicate the national rights against the unjust claims of Edward I., recognised *the* FEUDS as a sort of law of nations which the Scottish people would have been bound to obey if the English king had been their superior lord. Hearne's Fordun, p. 869. Madox had begun to make Collections for a *feudal history of Scotland*, which may be seen in the British Museum, No. 4532. These Collections consist of a very few notes, indeed, from the English Records, and furnish no illustration of the obscure annals of the Scottish tenures.

(*t*) Lord Kaims conjectured that the feudal law was introduced into North-Britain by degrees; and he supports his conjecture by what he had often heard as a fact, "that as late as the reign of James "VI., there were landed gentlemen in Scotland who never had accepted of a charter." Ess. on Brit. Antiq., p. 23. We may easily suppose that those gentlemen were *Gaelic Highlanders*. In fact, there was a statute of that reign, 15 Ja. VI., ch. 262, compelling all heritors and landlords in the highlands "to produce their rights and titles."

(*u*) Essays, 6-13.

(*x*) Kelham's Laws of the Conqueror, p. 81-2; Blackst. Com., ii. 48-9; Hales's Hist. Com. Law, i. 7. Wright's Tenures, 52.

(*y*) Blackst. Com., ii. 50.

where be traced such legislative proceedings if we except that despicable fabrication the *leges Malcolmi* (*z*). Yet the whole Chartularies of Scotland in fact, establish the same legal fiction as a fundamental principle, that the king is the royal fountain whence flow the hereditary possessions of his people, and to which must be traced every title to heritable rights. The most ancient charters which were given by the Scoto-Saxon kings ascertain the real existence in fact of that fictitious principle of law. The children of Malcolm-Ceanmore, Edgar, Alexander, and David, seeing the contemporary sovereigns of England acting as the original proprietors of all lands within their kingdoms, adopted a similar practice as a commodious policy. Their followers who were equally acquainted with this policy and that practice in England, willingly accepted the gift of lands on such terms of service as the Scottish king thought fit to annex, and as the English barons readily paid.

The first time that the name of *fief* or *feodum* appeared, was in an assize of Charles le Gros, who was recognised King of France in 885 A.D. The names of *feudum, feodum, feium,* succeeded the term *beneficium.* Both the name and the thing came into England with the Normans, who had derived

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(*z*) King Malcolm distributed all his lands among his men, reserving nothing in property to himself but the royal dignity and the *Mutehill of Scoon;* and his barons granted to him the ward and relief of the heir of each baron for the king's sustentation. Such was the conduct of Malcolm and his barons, according to that juridical legend. In a charter of David, the Earl Palatine of Strathearn and Caithness, to John Rollo, dated at Methven the 13th of February, 1380, which was confirmed by a charter of Robert II., dated the 4th of February, 1381, the lands of *Fyndon* were granted with this remarkable reservation: "Salvis nobis et heredibus nostris *Cathedra comitis* et loco domus "capitalis dicte terre de Fyndon." Thus was the chair of justice wherein the Earl sat to decide causes, which was placed to the *westward* of the mansion house, reserved, though the lands were conveyed. Astle's MS. Diplom. Scotiæ. This is a proof that authority which was annexed to property might be retained after alienation. Wallace's Peer., p. 72; and the Sutherland case. In those charters we may perceive the practice which gave rise to the fiction of Malcolm's reservation of the Moothill of Scone. In fact, there was a *Moothill* in every district of North-Britain during an age when justice was administered to a coarse people in the open air. The Chartularies are full of intimations of this kind. A regality court was held by Alexander Steuart, lord of Badenach, a° 1380, "Apud le Standand Stanes de le Rath de Kingusy." Chart. Moray, fol. 51. A court was held before the Bishop of Moray, on the 3rd of February, 1398, "Apud pontem episcopi." Ib., fol. 53. In 1382 Ade, the Bishop of Aberdeen, held his court, "Super monte St. Thomæ Martiris "juxta canoniam de Aberdon." Chart. of Aberdeen. This appears to have been the usual place for holding the bishop's courts. Id. The canons of the Church of Scotland, indeed, prohibited the laity from holding their courts in the churches. Id.; and Lord Hailes's Canons, 1269, p. 46; "Quod laici non teneant placita in ecclesia." The abbot of Kelso held his court at the *bridge of Ettrick.* Chart. Kelso, 217. John Cumyn the justiciary held his court at a place called *Castleside.* Chart. Aberbroth., No. 5.

both from a German source (*zz*). Yet Muratori could not find the word *feudum* in any authentic charter till the eleventh century. Neither the word nor the thing was known in Scotland till the beginning of the subsequent age. In the practice of North-Britain the grants of David I., of Malcolm IV., and of William, were made "in *feodo* et hereditate," or, "in *feudo* et hereditate," for a special service (*a*).

From those intimations we may infer that in the law of Scotland there is no foundation for those theories, which system is continually asserting upon surmise rather than authority. We have already seen how often the *Regiam Majestatem* is contradicted by the fact. Property in land is said not to have originally involved a power of alienation (*b*). Yet is this theory contradicted by the oldest charter of alienation which has hitherto been produced or perhaps will ever be found. It is the charter which Thor-Longus made during the reign of Edgar to the monks of St. Cuthbert (*c*). During the subsequent reigns it is even asserted that land could not be sold in case of necessity without making the first offer to the heir (*d*). Yet is this position contradicted

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(*zz*) See the word *Pheodum* in a charter of William I. or William II. Madox's Formulare, 291.

(*a*) See the Diplom. Scotiæ, pl. xiv.; pl. xxii.; pl. xxviii.; pl. xxv. In 1158 Malcolm IV. granted a confirmation to Walter the son of Alan, in which he repeats the expression "in *feudo*," and declares that Walter shall hold of him his estates as freely, "Sicut aliquis ex baronibus meis liberius et quietius feudum suum de me tenet." Chart. Antiq. Bibl. Harl., 9.

(*b*) Lord Kames's Stat. Law Abridged, p. 407-19.

(*c*) It was first published by Anderson in his *Independence*, Ap., No. VI. Thor recites that Edgar had given him Ednaham, a *waste*, which, with the king's help and his own money, he had cultivated, and had built thereon a church. This church, with one carucate of land, he now gave for ever to the monks of St. Cuthbert, to whom the church had been originally dedicated. He indeed asked the confirmation of David, his most dear lord. In this charter he exercised the most perfect right of sovereignty. Diplom. Scotiæ, pl. lxix. See the charter of Earl Gospatrick, who exercised a similar right in favour of the monks of St. Cuthbert. Ib., pl. lxxi: and see several other charters of the same tenor in the Diplomata, pl. lxxiii. to lxxxi., and in the chartularies. Robert Avenel gave to the monks of Melrose his lands in Eskdale, which David I. granted to him "*pro servicio suo.*" Chart. Mel., 91. If we might reason from a statute of William the Lion, ch. 31, in Skene's Collection, it would appear as an undoubted inference that during the reigns of Edgar, Alexander, David, and Malcolm, freeholders might sell their lands; for it enacts: "Gif any "Freeholder gives or sells any part or portion of his lands, he sould leave as meikil of the land "as may pay to the overlord the service aucht to him furth of the land." As early as the reign of William, I see an instance of *subinfeudation* very accurately marked in the charter of David de Lyndsey, confirming the charter of his father William: "Salvo servicio domino regis et servicio "quod ad Swan filium Thor et ad heredes ejus pertinet." Chart. Newbotle, 144-5-6. One of the records which Edward I. removed from Edinburgh was, "Litera Willielmi de Moravia, quod non alienabit terras." Ayloffe's Cal., 342.

(*d*) Lord Kames's Stat. Law Abr., p. 419. This was the custom in some of the boroughs.

by the Chartularies. The abbots frequently advanced money to necessitous individuals, and obtained their lands as payment of the loan (*e*). The law of Scotland appears, however, to have undergone a change before the reign of David II. (*f*). It is laid down in the exploded treatise of the *Regiam Majestatem*, that lands could not be devised by will during the early ages of the Scottish law (*g*). Yet, does the fact, as it is demonstrated by the Chartularies, contradict the theory, as it is stated by systematic writers (*h*).

The inferences which were drawn by lawyers from the feudal principle of yielding services for the lands, were what have been called in the Scottish law, *Ward*, *Non-Entry*, *Marriage* and *Relief* (*i*). The common opinion was, that all those feudal inferences, necessarily resulted from the *leges Malcolmi* (*k*). Craig, the feudist, sought for their origin in the *book of feuds* (*l*). On these technical points there are not many notices in the Chartularies ; and from this circumstance it may be inferred, that those feudal deductions were not carried into strict practice till the late conclusion of the Scoto-Saxon period.

The Chartularies are full of grants to the religious houses, during that period in *libera elemosina*, the *Frankalmoin* of the Anglo-Norman law. For lands ac-

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(*e*) Cecilia, the widow of John de Perthic, sold her lands in Ruthglen, to the Abbot of Paisley, in consideration that he had supplied her with three chalders of oatmeal during her necessities. Chart. Paisley, 85. She sold the rights of herself and *heirs*, without any offer to her heir. See also Ib., 108. Lands were exchanged without any consent of heirs. Ib., 95. It is to be observed, however, that David I. and other kings of Scotland, as well as the barons and other landholders sometimes enrolled in their charters, the assent of their sons, and often of their wives.

(*f*) In 1357 David II. granted to Alexander de Cokburn the barony of Careden, in Edinburghshire, "Que nos contingit ratione escætæ pro eo quod Johannes de Veterponte dictam baroniam injuste "alienavit nostra licentia non obtenta." Robertson's Index, 76.

(*g*) Walter de Ridal left all his lands and goods by will, to his brother Ansketin. This will was confirmed by a bull of Pope Adrian IV., from 1154 to 1159. Dalrymple Col., 348. David Ruffus constituted the monks of Cupar his heirs to the lands of Kincrefe. Chart. Cupar, 21. Adam, the Abbot of Forfar, by charter, constituted the monks of Forfar his heirs, if he should die without issue. Ib., 36.

(*h*) Lord Kames's Stat. Law Abr., 369.

(*i*) Those feudal inferences, however, of *ward*, *non-entry*, *marriage*, and *relief*, appear in the Chartularies as objects of royal revenue as early as the reign of William the Lion, perhaps as soon as the age of David I. MS. Monast. Scotiæ, 31-33. The barons undoubtedly enjoyed the wardship of the heirs of their vassals, and we have seen John Cumyn, the Justiciary of proper Scotland, claim in Parliament the wardship of his *idiot*. The abbots and other ecclesiastical lords, claimed the same privilege which carried with it patronage and profit. Hugh, the abbot of Kelso, from 1236 to 1248, granted to Emma, the widow of Thomas de Bosco, the custody of her son and heir, till he should come of age, "Cum maritagio" of her son, she paying twenty pounds of money. Chart. Kelso, 455.

(*k*) Hope's Min. Practicks, 180.

(*l*) Craig, b. ii.

quired by such grants, no services were done; but the Chartularies equally show many gifts of lands in consideration of divine service to be done, and this retribution, reasonable as it was, gave rise to many disputes which were ended sometimes by composition, and often by law-suits.

There was another tenure in that age of an analogous nature, and of which the Scottish lawyers take little notice. It arose from grants in *liberum maritagium.* In 1160 Malcolm IV. conferred on Duncan, the Earl of Fife, who took to wife Ada, the king's niece, many lands in *liberum maritagium* (*m*). Of this marriage was Malcolm the seventh Earl, who married Matilda, the daughter of the Earl of Strathearn. With her he received many lands in *liberum maritagium*, by the grant of Earl Gilbert, her father (*n*). The making of such grants, which conveyed a right without a service, evinces that in those times tenures had become familiar in the *English pales* or Scoto-Saxon districts of North-Britain.

There were other kinds of services in North-Britain which were quite different from the Anglo-Norman tenures, and which are not noticed by those Scottish jurists who speculate about the feudal law. This allusion is to the *Scoticanum Servicium*, which is so distinctly marked in the Charter of Moray (*o*). After reserving for the county the service of eight knights, the king adds, "*et Scoticanum Servicium*, et auxilium debitum et consuetum." There are but very few charters in which these *Scotican Services* are so clearly mentioned (*p*); and these are very nearly allied to "*l'usage* de *Scots* & de *Brets*," which Edward I. attempted to annul by his ordinance for the government of Scot-

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(*m*) See this curious charter in Sibb. Fife, 95.

(*n*) Ib., 96. Ada de Curtenay, the daughter of Patrick, the Earl of Dunbar, granted to the monastery of Kelso, "quandam partem terre de *libero maritagio meo*, in territorio de Home." Chart. Kelso, 128. Hugh de Reveden granted certain lands to Galfrid de Eckford, with his daughter Matilda, in "*liberum maritagium.*" Ib., 543. Robert II. gave the castle and lordship of Kinghorn to John Lyon, knight, Lord Glamis, in *liberum maritagium*, with Janeta Stuart, "ex filia Ade Mure regina prognata." Sibbald's Fife, 154. In the contract of marriage between James Douglas, lord of Dalkeith. and Agnes Dunbar, the sister of George Earl of March, the earl was bound to give in *liberum maritagium* with his sister, a hundred pound land in the Isle of Man, as soon as it could be recovered by war or by peace. Robertson's Index, 131.

(*o*) From Robert I. to Ranulph creating him Earl of Moray. Lord Kames's Ess., 100, 101; Shaw's Moray, App., No. 1. In 1286 *servicium Scoticanum* were covenanted to be paid for the lands of Duffus, in Moray, and of Strathbrock, in West Lothian. Chart. Moray, 141.

(*p*) In the supposed charter of King William to Morgund, the son of Gillochar, Earl of Mar, which Selden published in his *Titles of Honour* from a copy in the hand of the time, the *servicium Scoticanum* is distinctly stated. But there are objections to the genuineness of this document, which Selden regarded as genuine. This service is pointed at in a real charter of King William to John Waler, of the land of Ballebotle. Astle's MS. Diplom. Scotiæ, No. 4.

land in 1305; and those *Scotican Services* were no doubt *Gaelic Customs,* though somewhat different perhaps from the *Can* and *Conveth* which are so often mentioned in the charters of the kings and bishops as their ancient dues throughout the realm during the whole Scoto-Saxon period. Both those taxes or duties are properly Celtic as the words imply, and came down from the Celtic Kings to the Scoto-Saxon dynasty as legal rights by lawful transmission (*q*).

The Constitution of Parliament in North-Britain, as it is a subject of great importance and dignity, has engaged the pens of several writers. Theory has also been active to form a system which plausibility might adopt and party might propagate. Under the feudal institutions the Parliament was considered as the king's court for the whole realm; and it resulted as a necessary consequence that the king's vassals were there bound to yield their suit and service (*r*).

Whether all those positions can be supported by record and fact during the Scoto-Saxon period of the Scottish annals may admit of some doubt. Of legislative regulations during the reigns of Edgar and of Alexander there is not the slightest trace. David I. was undoubtedly a legislator. Some of his assizes still remain, though they do not show by whose *advice* and *assent* they were made. Neither do the *leges Burgorum* exhibit the exact authority by which they were enacted. David held an assembly of the *clergy* and *barons* at Carlisle in 1138, which may be deemed an *ecclesiastical* rather than a *civil* council, as it appears to have been called by the Pope's legate (*s*). Malcolm IV. did not leave any assizes that have come down to modern times, though he undoubtedly had enjoyed *aids* which he had obtained of the *estates* of his realm and may be now traced in the Chartularies.

If we may believe Skene, William the Lion left many assizes which seem to have been enacted with the consent of prelates, earls, barons, "et alij probi "homines terræ" (*t*). The context shows that those laws were not copied

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(*q*) The *Can* and *Conveth* appear at the dawn of record in the earliest charters, and those duties were undoubtedly collected as well in the Celtic countries of Galloway and of Argyle as in the Scoto-Saxon districts, which may be called the *English pales.* See charters of Selkirk, of Dunfermline, and of Scone, and of Coldingham.

(*r*) Mackenzie's Institutions, 12; Lord Kames's Ess. on Brit. Antiq., 25; Wallace's Peerage, 116-124.

(*s*) R. Hagustald, 325.

(*t*) See Skene's Col., ch. 7-32. Mr. Wight has written a learned commentary on the enacting clauses of those statutes, supposing that they are genuine records. Inquiry, p. 19. In this supposition I do not concur, because I see that they do not agree with an unsuspected record. I do not from any record; and it is more than probable, that those assizes do not contain an accurate enumeration of the constituent members of those legislative assemblies. Skene has also published some statutes of Alexander II.; but suspicion, by questioning their integrity, has also disputed their informations (*u*). There are no documents remaining, with regard to any parliamentary meetings during the reign of Alexander III., except the Parliament Roll of 1284 (*x*). There were, indeed, under his administration some ecclesiastical councils, consisting of prelates and nobles; and it is impossible to distinguish such assemblies from parliamentary meetings, as they were constituted generally by the same persons, any otherwise than by the circumstance of their being summoned, either by the king or by some ecclesiastical power.

The demise of that monarch, as it left a thousand disputes to be settled, bequeathed many documents for the uses of history. There assembled at Brigham in 1290, a very full parliamentary meeting of the Scottish prelates and nobles, in order to agree to the marriage of their sovereign. Not only public invitations had been given, but private intrigues had been used to collect every constituent member (*a*). From this circumstance we may easily suppose that

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believe that there were *aliji probi homines*, exclusive of the ecclesiastics and nobles who were specified in those assizes, because I see in a parliamentary record that there were none others sat in the Scottish legislature. I agree, however, with that able expositor that those statutes of William, inaccurate as they are, show satisfactorily that the representatives of the boroughs did not form any constituent part of the Scottish legislature in that age.

(*u*) Skene's Col., ch. 1. The king enacted with the consent of *his earls*. This cannot possibly be true, for the earls alone did not form a great council. In ch. 2, the king is said to have enacted with the consent of the bishops, abbots, earls, and barons, "and his gude subjects." The enumeration of this statute is very near the truth, and would have been completely according to the fact if the *priors* had been added and the *gude subjects* had been left out, who were present in *law* but not present in *fact*. See Sir G. Mackenzie's Observ. on the Stat. 6, for the several *formula* or enacting words, whence he infers that "the legislative power is in the king."

(*x*) Rym. Fœd., ii., 266.

(*a*) Rym. Fœd., ii., 471. This is an uninterpolated record, and every sound mind must regard it as a real statement of the truth and of the whole truth. It shows that there were present with the guardians in that numerous meeting ten Bishops, exclusive of the Bishops of St. Andrews and Glasgow, three-and-twenty Abbots, eleven Priors; and these forty-six ecclesiastical persons were the men of learning, knowledge, and business; there were twelve Earls, exclusive of John Cumyn and James the Stewart, two of the guardians; and there were forty-eight *Barons*, or rather country gentlemen; and that assemblage was altogether fit to be the body politic of any country on earth. But it did not include any representatives of boroughs. As the names of all those who were present are distinctly but inaccurately stated, we see clearly who were the constituent members of one of the first parliamentary meetings whereof we have any authentic account, for the statutes of William and Alexander II., which were published by Skene, are not such authentic documents as can be relied on for accurate notices.

every personage was present at Brigham who had ever been summoned to the Scottish legislature, and who acted now for the whole community of the Scottish nation. Nor is it reasonable to expect, amidst the revolutions which ensued upon the demise of Margaret and the factions that arose among the competitors for her succession, any other persons as constituent members of the Scottish Parliament than those characters who acted on the political stage at Brigham (*b*).

The examination which has been thus given to the Parliament Roll of the legislative assembly at that place has already answered a much agitated question, how early the representatives of boroughs were admitted into the Scottish Legislature? And the silence of the record has answered that question by showing that, as none were present at Brigham in 1290 or at Ayr in 1315, there had never been any present on any former occasion (*c*).

In arguing such a question, it is absurd to reason by analogy, from the condition of towns in foreign countries, which had no analogy to the Scottish villages. Gaelic Scotland had not towns. When strengths were built in subsequent times, hamlets arose under the shelter of their walls. It is apparent from the charters of Alexander I. and David I., that the towns were their property *in demesn* (*d*). The bishops had similar rights in the cities which formed the seats of their power (*e*). The Abbots also possessed several towns in *demesn*, and the inhabitants of them were merely their vassals (*f*).

None of the towns of Scotland have earlier charters than the grants of William the Lion (*g*). The charters which remain, as they are silent upon the point in question, strengthen the presumption, that the towns did not claim the burden of attending the King's council as one of their privileges. Yet the late Lord Kames delivered it as his opinion, "that the Royal Boroughs

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(*b*) The very first parliament of Robert Bruce, consisted like that of Brigham, of Bishops, Abbots, Priors, Earls, Barons, and others his noblemen. Skene's Col., 19; Lord Kames's Ess. Brit. Antiq., 30; Robertson's Index, App. 7, for the specification of the record.

(*c*) Neither were there any representatives of burghs present in the great meeting of Parliament which was called, in 1284, to settle the descent of the crown. See the record in Rym. Fœd., ii. 266; Robertson's Index, App., 7-9.

(*d*) See the charters of Scone, of Dunfermline, of Selkirk, of Glasgow, of Aberdeen, and of Moray; and see Sir James Dal. Col., App., No. 2, 3, 4: the kings granted tofts in the several towns, with annuities out of *the ferms* thereof.

(*e*) The towns of St. Andrews and Glasgow were the mere *demesns* of the several Bishops, as we learn from their respective chartularies.

(*f*) In 1323, the burgesses of West Kelso acknowledged, in the Court of the Abbot, that they had done wrong in making a new *Burgess* without his authority. Chart. of Kelso, 209.

(*g*) Wight on Elections.

"made originally one of the estates of Parliament (*h*)." It is sufficiently weak to reason without premises; but he who argues against facts which are attested by records, cannot be praised as a logician. His opinion was that since they were the King's vassals, they incidentally formed constituent members of the King's council (*i*). Yet is it certain that those vassals of the King, who were sent for by his writ, had the honour of assenting to his laws (*k*). It was indeed the absurd opinion of a late writer on the public law of Scotland, "that *the Burgesses* were the true and the ancient *commons* of the kingdom (*l*)." It was a more reasonable opinion of the late Lord Hailes, that "*la commune,* at that time, meant the communities of boroughs (*m*)." Yet a little further inquiry would have shown him that *la commune* in that age, meant the community of the whole realm (*n*). In the end, Wight conjectures that the year 1304 was the epoch of the introduction of deputies from towns into the great council (*o*). But a conjecture which is founded on a mere mistake, does not require an elaborate confutation. The year 1326 ought to be deemed the true epoch of that important change in the Scottish constitution, if a genuine record be the safest counsellor (*p*).

(*h*) Ess. Brit. Antiq., 31.

(*i*) Ib., 35. Even after the representatives of the towns were admitted into Parliament by Robert Bruce, they seem only to have been called in those times when money was wanted; but not when the descent of the crown was to be settled. See Robertson's Index.

(*k*) Brady on Boroughs, 53-54.

(*l*) Public Law, 121. After a long search for something more convincing than mere conjecture, in support of such an opinion, this writer found a forged charter of Malcolm Ceanmore, which he published in his App. 5. The learned Wight was so much offended by the dogmatism of this confident person that his indignation seems not to perceive the quoted charter of Malcolm to be an obvious forgery. Enquiry into the Rise of Parliament, 23. See an account of the towns of Scotland during that age, in Book iv., ch. vi.

(*m*) Annals, i. 283.

(*n*) Ryley's Placita, 244. Wright's Tenures, last page, shows how fond our ancestors were of the word *commune,* and that the Commons of Great Britain glory in it at this day. It is apparent from the record that the great Parliament at Brigham acted "pur tote la *commune* de Escoce:" they speak in their own names and in the name "de tote la *commune.*" Rym. Fœd., ii. 472. In the marriage contract of the damsel of Norway with Edward's son, the Bishops, Abbots, "et totum "clerum," and the Earls and Barons, "totamque communitatem regni Scotiæ," are the contracting parties. Ib., 482. We here again see that the constituent members of the Parliament act for the *whole community.* In fact they were the *body politic* of the whole kingdom, or *tote la commune.* Against such documents theorists speculate in vain.

(*o*) Inquiry into the Rise of Parliament, 44.

(*p*) There is an indenture which was drawn up in Parliament between Robert Bruce and his Earls, Barons, free tenants, *communities of boroughs,* and the whole community of his realm, and

It is an inquiry which has been more elaborately discussed, because it involved more lasting consequences, when, and on what occasion, the old and new extents were originally introduced into the Scottish jurisprudence.

The first record which mentions distinctly the old *extent*, is the indenture before mentioned between Robert Bruce and his Parliament in 1326. It refers to the *old extent* which existed in the time of Alexander III. Lord Kames was perhaps, the first writer who supposed that the old extent originated in that reign (*q*). The late Lord Hailes was the first antiquary who produced from the chartulary of Aberdeen, a record which speaks during the reign of Alexander III, of the old extent (*i*). This record was probably produced in order to abate the confidence, without mortifying the pride of Lord Kames.

That there existed during the reign of Alexander III., in the law and practice of Scotland, a well known valuation of lands which was then familiarly called the *old extent*, is certain. When Bagimont assembled the Scottish clergy in 1275, he insisted that they should grant the tenths of their benefices, "non "secundum *antiquam taxacionem*, sed secundum *verum valorem* (*r*)." This curious passage proves that the *ancient extent* was in 1275, perfectly known to the Pope's legate. In 1269 it was enacted by the Scottish church, "quod non "imponantur, nec *antiqui census* augeantur (*s*)." These notices intimate that there must have been an extent before the age of Alexander III. In 1224, indeed, Alexander II. levied a feudal aid of £10,000 on the lands, for providing portions to his sisters (*t*). From this fact, it is supposed that there must have been an *extent* even in the preceding age. A statute of William the Lion would finish this inquiry, if we could receive it as a record (*u*).

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which proves that deputies from boroughs were then present. This important document is preserved in the Advocates' Library, and appears to be an uninterpolated record; it was published by Lord Kames in his *Law Tracts*, 1761, App., No. 1; and by Wight, in his Inquiry, App., No. 1. It was this record which convinced the late historiographer royal that the year 1326 is the true epoch of the appearance of the *communities* of boroughs in the great council.

(*q*) Law Tracts, 411-12.

(*i*) Annals, i., 184; Wight's Inquiry, 160. In 1296, when Edward I. found it necessary to make provision for the wives and widows of the Scottish prisoners, he granted to those ladies so much value of land "according to the *legal* extent." Rymer's Fœd., ii., 728. He could not speak of the *old* extent, as he knew nothing of any *new* extent.

(*r*) Fordun, Ed. Hearne, 780.

(*s*) Lord Hailes' Canons, 10.

(*t*) Fordun, lib. ix., c. xliii.; L. Hailes' An., i., 149.

(*u*) Stat. Wm., ch. xxiii.: "He quha hes a *fiftene pond land* sall have an horse an habergeon, &c.; "he quha hes a *fourtie shilling land* sall have an bow and arrowes;" the terms which are here made use of necessarily suppose a previous extent. The late Dr. Stuart asserts that the *pound-land* came in with James I., and he quotes, as the support of his unfounded position, the *black acts*, 1424, ch. 10, 11. Pub. Law, 205-6.

But there is a genuine record of the reign of William which confirms the statute and ascertains the truth. It is a grant of that monarch while Hugh was chancellor, which speaks of an aid that had been assessed at Musselburgh (*x*). This charter carries the recollection back to the year 1189, when Richard, the generous King of England, restored to William the Lion the independence of his realm, on paying ten thousand merks of sterling money. But such a sum by the Exchequer of Scotland could not then be paid; and William found it necessary to ask the aid of his people, which was soon after given at Musselburgh by an assessment on the valuation of their lands. These then are such coincidences as are very remarkable in themselves, and are extremely satisfactory in their inferences. There is another coincidence, which seems to carry the conclusions of probability up to the attestations of certainty. The *old* extent was taken *tempore pacis*; the *new* extent was made *tempore belli* (*y*). After that great epoch of the independence of the realm, more than a century elapsed without the recurrence of any national war.

The true epoch of the new extent was equally uncertain till recent times. Erskine has the honour of having pointed out the real era of the new extent, after Lord Kames had failed in drawing this subject from its obscurity. Erskine remarked "that no period appears more likely for a new extent than "the year 1365 or 1366, when a tax was to be imposed for the ransom of "David II. (*z*)"; and this conjecture is now ascertained to have been the fact, by the decisive information of a parliamentary record (*a*). The year 1366 may be properly deemed *a time of war*, as several towns on the Tweed were still retained by the English, and the ransom of David was yet unpaid. Such

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(*x*) Lord Hailes was also the first who brought this charter of William to bear upon the question about the old extent. An., i., 132. This charter is No. 32 in Lord Stormont's Chart. of Scone. Hugh became chancellor in 1189, and died in 1199.

(*y*) Hope's Minor Practicks, 195. Hope remarks that the duty or tax returned under the *new extent* was very diverse in different shires; it was sometimes the double, sometimes the triple, the quadruple, the quintuple, the sextuple, and even the septuple of the old extent. The lands in the several shires have been *extended* under very different forms from those which were noticed by Hope, and they were denominated in the ancient language of a Gaelic people. See Book iv., ch. vi. The Gaelic names of the lands are sufficient to show the early period at which it was made, when the names were imposed in the Gaelic language even in the Lowlands of Ayr, Renfrew, and Dumfries, and when the lands were of little yearly value, being extended in pennies, halfpennies, and farthings.

(*z*) Institutes of the Law of Scotland, 225; Wight's Enquiry, 162.

(*a*) The interesting volume which his Majesty caused to be transmitted in 1793 from his Paper-Office to the Register-House at Edinburgh, contains that parliamentary record; the 20th of July, 1366, is the true epoch of the new extent. But the record does not confirm the observation then has been the progress of information from uncertainty to knowledge, owing to the efforts of inquiry on this curious subject.

From notices with regard to the old and the new extent, we are led to a consideration of the King's revenue during the Scoto-Saxon period. (I.) The most ancient is undoubtedly the *Can*, a Celtic *Due* of prior times which seems to have been payable on the products of hunting, and agriculture, of domestic animals, as well as from the profits of traffic and shipping. (II.) The next source of revenue seems to have been certain fees and fines, which arose in every feudal country, from the administration of justice: of the same feudal nature were the advantages of *reliefs*, *wards*, and escheats. (III.) As the gaeatest farmer in his realm, the King derived a vast income from his various manors, mills, and saltworks. (IV.) Of the same nature was the revenue, which he enjoyed from the fee-farms of his towns in demesne. (V.) The temporary aids which every feudal sovereign was entitled to ask from his feudal tenants, for relieving the King from captivity, for making his son a knight, and for giving portions to his daughters, brought very large sums, at times, into the Royal Exchequer. (VI.) Of the like nature were the old custom-house duties, which were first established by a parliamentary grant to William the Lion, whose frequent misfortunes required the beneficent aid of his people: the new customs were conferred in this spirit, on Robert Bruce, whose merits and services were such as to demand both the assistance and applause of his country (*b*).

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of Erskine, "that the new extent is higher than the old, the ancient valour being much greater than the new.

The old value of all the Bishoprics, excepting Man, being	£15,109	19	0
The true value, in 1366, being	9,555	6	6
The total rents, for which the sheriffs were accountable, were according to the ancient valor, except the rents of Argyle,	£45,355	7	8
The same, according to the new value,	23,106	4	4

(*b*) After the demise of Alexander III., and after Edward I. had acquired the ascendancy, there were found in the Castle of Edinburgh the accounts of the several sheriffs and other receivers of the King of Scots, from 1218 to 1275. Ayloffe's Calendar, 337. The Exchequer seems, however, to have been held at Roxburgh, though the Castle of Edinburgh was the depository of the records, like the Tower of London. Id. Among these records there was a roll, "de diversis "reddibus *vaccarum porcorum*, et aliorum, &c., qui sic incipit; redditus *vaccarum* de *Aberdeen*." We thus see that the king's rents in Aberdeen were paid in the gross produce of the lands. There was an account of William Cumyn, the Earl of Buchan, de antiquis redditibus, in *bladis*, et aliis. Yet were there other payments: there were *rotulus* abbatis Archibaldi de antiquis redditibus in *denariis*, et antiquis Waytingis, Among those records there was a great roll, "de

Whatever may have been the laws which were established in North-Britain, either by assizes or usage, from the accession of Edgar till the demise of Alexander III., the nation considered them as their safeguard. The marriage contract of Margaret of Norway with the son of Edward, evinces, that the Scottish people knew their laws and rights, which they were studious to retain (*c*). If Margaret had lived to have been the Queen of England as well as of Scotland, her marriage contract would have been considered by her Scottish subjects as the *great charter* of her ancient realm.

Thus much, in respect to the theory of the law, as it is evidenced by record. It is now proper to make a few observations with regard to the practice of the Scottish jurisprudence during the Scoto-Saxon period. The first adjudication which has yet appeared, is that of Earl David, before his accession to the throne, between his *Drenges* of Hornden on the Tweed, and the monks of St. Cuthbert: the Earl decided that if the monks had *legal witnesses*, or his brother's charter, they should quietly retain the land. They did produce his brother's grant: and they did retain the land (*d*). The first part of this decision resembles the usual mode of adjudication, in England, during the reign of *the conqueror*, when every question with regard to lands, turning upon actual *possession*, was decided by lawful witnesses. The next in time, as well as in curiosity, is the dispute between Sir Robert Burgoner and the monks of Lochleven. The knight violently oppressed the monks, who complained to David. The King summoned a meeting of the whole county of Fife, and Forthrif, in order to do justice to both parties. Constantine, the Earl of Fife, and the great judge of Scotland, collected the power of the county: and the Bishop of St. Andrews sent his *army*, which was commanded by Budadh and Slogadah: here, then, were two armies assembled for supporting law and justice. Without the appearance of an inquest, the dispute was referred to three judges; Constantine, the Earl, Dufgal, a judge, venerable for his age, and noted for his knowledge, and to Meldoineth, a judge of equal respectability. After hearing witnesses, Dufgal gave his judgment upon the complaint, and pronounced sentence against Rurgoner (*e*). There was here no inquest of lawful men: the dispute was de-

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"compotus burgorum Scotiæ." There was another, "de compotus *episcopatuum* Scotiæ." There was a roll of the *customs* of *wool* at Berwick; and there was another of the new customs of the burgh of Berwick.

(*c*) By that contract it was provided, "quod jura, leges, libertates, et consuetudines regni Scotiæ integre et inviolabiliter perpetuis temporibus observentur." Rym. Fœd., ii. 482.

(*d*) Smith's Bede, 762; by confounding the *u* with the *n*, the name of that ancient parish is mistakingly called *Horevordene*.

(*e*) Crawford's Officers of State, 431, who gives this curious perambulation between the lands cided by the judges upon the examination of witnesses. The whole proceeding evinces that Fife was then a Celtic country, and was governed during a rude age by Celtic usages.

As early indeed as the reign of David I., the profits arising from the proceedings of the courts of justice had become objects of donation (*f*). The successors of David took an example from his liberality, in granting to the penury or to the avarice of the monks similar revenues from judicial proceedings (*g*); and before the conclusion of the Scoto-Saxon period the ecclesiastics enjoyed much of the royal profits arising from the administration of justice to their people. The Bishops and Abbots in their turn granted in the same manner the profits of their courts (*h*).

In that period the kings presided personally in the administration of justice, as we have in some measure seen (*i*). William decided in his New

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of Kirkness and Lochor, from the Register of the Priory of St. Andrews. The monkish reporter of this decision concludes his account thus: "Et sic victus fuit predictus Robertus coram "omnibus."

(*f*) David I. granted to the church of Glasgow the eighth penny out of all his *pleas* in Cumbria. Chart. Glasgow, 19. David I. granted to the monastery of Dunfermline the eighth part "de "omnibus *placitis* et lucris meis de Fife et de Fotherif." Chart. Dunfermline; Dal. Col. Ap., 385; MS. Monast. Scotiæ, 104, In 1128, David I. granted to the monastery of Holyrood the tithe of all his *pleas* from the Avon to Colbrandspath, and the half of his tithes of his *can*, and of his *pleas* and profits, in Kintyre and Argyle. Mait. Edin., 145. David I. granted to the priory of Urquhart, in Moray, the tithe of his *pleas* and profits in Argyle. Chart. Morav., 32. He also granted to the monastery of Cambuskenneth the tenth of all his pleas and profits of Stirling and Stirlingshire, and of Callander. Chart. Cambuskenneth, 28, 61.

(*g*) King William granted to Simon, the Bishop of Moray, the tithes of his pleas throughout the whole diocese of Moray. Chart. Morav., 36; MS. Monast. Scotiæ. The monastery of Scone had a right to the "secundas decimas lucrorum tam de itineribus justiciariorum quam exitibus "curiarum vicecomitum nec non de *wardis*, et *relevis*, infra vicecomitatem de Perth." Chart. Scone, 102. The prior and canons of Restennet had a grant of the tenths of the wards, reliefs, marriages, fines, escheats, and other emoluments which accrued to the king in the justiciary, chamberlain, and sheriff courts in Forfarshire, which had been granted to it by David I., and confirmed by his successors. MS. Monast. Scotiæ, 31, 33. The Bishops of Brechin had a grant of the second tenths of the same profits in Kincardineshire, as the Bishops of Aberdeen had to those within the shires of Aberdeen and Banff. MS. Monast. Scotiæ, 58-9. The prior and convent of Candida Casa got from Robert I. a similar grant of those emoluments, coming to the king in the Rinns of Galloway. Ib., 19.

(*h*) Arnald, the Bishop of St. Andrews, conveyed to the priory of St. Andrews the tenth of all his pleas, "tam secularibus, quam ecclesiasticis, et de omnibus releviis suis totum oblationem altaris:" and this grant was confirmed by King William. Reliquiæ Divi Andreæ, 166.

(*i*) This fact is attested by the Chart. Glasgow, 241, when it was deemed necessary to go before Alexander III., though he was sick, in 1261. When we read of certain acts done "in plena

Forest, while hunting with his nobles, on the peerage of Morgund, the Earl of Mar, if we may believe the document which Selden has published (*k*). William undoubtedly pronounced an award on certain differences between the monasteries of Kelso and Melrose (*l*). In 1235 Alexander II. decided at Liston, a controversy between the monastery of Melrose and Roger Avenel on the right, which his grandfather had reserved when he conveyed the land to the game on their lands in Eskdale (*m*). The kings generally granted charters confirming their own decisions as well as those of the sheriffs and other officers who were constituted judges under the royal precepts, as we know from the chartularies wherein such charters are recorded (*n*).

The whole extent of Scotland was divided, though not in early times, into *royalty* and *regality:* the royalty was judged by the king or his immediate judges, the regality by the officers of those ecclesiastics or nobles who enjoyed regalities from the king's grant (*o*). The personal term *Baron* is common in the charters of David I., Malcolm IV., and of King William, but the territorial term *Barony* appears to have only come into use in the reign of

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"curia mea," it always meant, in those times, that the king was personally present. Chart. Antiq. Bibl. Harl., 7; Chart. Glasgow, 47-49; Chart. Newbotle, 49; Chart. Moray, 54; where we may see Alexander II., in 1225, assume to himself from the ecclesiastical court, though authorized by the Pope, a suit touching a barony. The power of choosing judges was declared to be one of the king's prerogatives by the 1st Parl. of Ja. I., ch. 2. It was declared by the 5th Parl. Ja. III., c. 27, to be lawful for the king to take cognizance of matters that came before him, "as it wont to be "of before."

(*k*) Titles of Honour, 2nd edit., 846.

(*l*) Chart. Kelso, No. 18; which award, in nature of a judgment, was certified, like other judgments, by a royal charter under the great seal.

(*m*) Chart. Mel., 97. It was then adjudged that Roger Avenel was entitled to all the deer, and boars, and goats, and hawks; but that the monks had no right to kill any of the game, except the *wolf.* Sir George Mackenzie gives a successive view of the *judicial power* in the following manner:—(1.) The king himself; (2.) The king's council in civil cases, and when the Parliament under Robert Bruce acted in the *judicial capacity* it assumed the place of the king's council; (3.) By the third Parliament of James I., No. 65, some commissioners of Parliament were to be chosen by turns, who, with the chancellor, were to be *the session*; (4.) By the 48th Act, 6th Parl. James IV., *the session* was turned into a *daily council*, which was to be chosen by the king, and to reside wherever the king had his residence, with the same power as the *session* had exercised; (5). In the room of all which came *the College of Justice,* and *the Lords,* as they now are by the 36th Act, 5th Parl. James V. Observ. on the Stat., 19.

(*n*) Chart. Kelso, 18; Chart. Soltre, 17; hence, as Sir George Mackenzie informs us, "of old, all decreets were under the king's wax [seal] till the institution of *the session,* when all the decreets of *the session* were under the quarter seal. Observ. on the Stat., 36.

(*o*) Sir George Mackenzie's Observ. on the Stat., 36, which exhibits only a modern view of those divisions.

Alexander III.; and into general use under Robert Bruce (*p*). As early as the reign of Alexander I., the right of regalities may from the King's charter be said to have begun (*q*). The Bishops and Abbots were empowered to hold courts within their own lands, and were freed from the authority of other jurisdictions. David I. followed with liberal steps his brother's example (*r*). The other Scoto-Saxon kings confirmed and enlarged those juridical powers, which their predecessors had improvidently begun in favour of the ecclesiastical orders (*s*). These exemptions were enlarged by subsequent kings, and confirmed by various Popes till the reformation involved the religious houses and their exclusive privileges in the same ruin (*t*). We thus see what powers and what modes of trial the Bishops and Abbots possessed from the royal grants.

The Barons very early began to acquire the jurisdictions which they saw with envious eyes in the possession of the clergy (*u*). The Barons, and even the vassals of the Barons, appear in the chartularies to have enjoyed a jurisdiction over the people living on their lands. The Barons courts certainly determined all disputes, like those of the clergy among their vassals, touching the

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(*p*) Chart. Arbroath, 2; Chart. Kelso, 350; Chart. Soltre, 17; Chart. Coldingham, 71; Chart. Moray, 54.

(*q*) Chart. Scone, 16-28. There were granted "omnes libertates, scilicet, curiam, suam plenarie "habendam in duello, in ferro, in aque, cum omnibus libertatibus, ad curiam pertinentibus, cum "libertate nulli respondendi extra suam curiam propriam." This grant to the monks was confirmed by Malcolm IV., by William, by Alexander II., and by Robert Bruce.

(*r*) Chart. Dunferm.; Dal. Col. App., No. III.; the Chart. of Holyrood in Maitland's Edin., 144. David granted "ut abbas *curiam suam* ita libere et plenarie et honorifice habeat sicut episcopus St. "Andreæ, et abbas de Dunfermlin, et abbas de Kelcu *curias* suas habent." David granted to the monastery of Lesmahagow the right of sanctuary. Chart. Kelso, 8.

(*s*) In the foundation charter of Aberbrothock William says: "Concedo etiam eos liberum terram "suam cum sacco et socco, cum thol et theme, et infangthefe; et ferrum, et duellum, fossam et fur- "cam." Chart. Aberbr.; Chart. Cupar, 11; Chart. Balmerin., 67; Chart. Paisley, 172-228; Chart. Colding., 3; which all conveyed similar jurisdictions.

(*t*) Some of the monasteries certainly acquired the powers of *regality* over their lands anterior to the accession of Bruce. In 1299 the Abbot of Arbroath repledged one of his men from the justiciary court which was held at Aberdeen by John the Earl of Buchan, the king's justiciary, "ad privilegium "de regalitatis de Aberbrothock." Chart. Aberbroth., 5. And the monks and their men, moreover, enjoyed a thousand exemptions. Chart. Cupar, 8; Chart. Balmerin., 3; Chart. Newbotle, 30; Chart. Colding., 3; Chart. Paisley, 161. In 1250 it was declared by an inquest at Forfar that the lands of Innerpeffer were held of the abbot of Arbroath, to whom the lord owed suit of court. Smal. Chart. Arbroath, 55.

(*u*) Malcolm IV. granted to Walter the son of Alan juridical powers of very ample extent. See his charter in A. Stuart's Gen. Hist., 7.

lands which were held under them (*x*). A charter of Fergus, the ancient Earl of Buchan, which he granted before the year 1206, throws the greatest light on this obscure subject (*y*). Fergus conveyed to John, the son of Uthred, in exchange for the lands of Slanys and Cruden, several other lands in Buchan, "in feodo et hereditate," for his homage and service, "cum *placitis* et *querelis*, et cum omnimodo eschaetis et rectitudinibus," as fully and honourably as the vassal of any Earl or Baron in Scotland (*z*). The jurisdiction of the Barons, as well as the Bishops, must have been subordinate to the King's justiciaries and sheriffs, as may be inferred, indeed, from the chartularies; there is not any intimation of any Baron enjoying an independent jurisdiction; such as were exercised under the *regalities* that were improvidently granted by Robert Bruce and by his royal successors.

The trials by inquest were not common till the reign of William. In 1184 there was a very obstinate controversy about the pasturage of the King's forest, between the monks of Melrose and the men of Wedale, settled before William, his brother David, the prelates and nobles by an inquest, consisting of Richard Morville, the constable, and twelve *fideles homines* (*a*). These inquests though under different forms, continued till the recent establishment of the College of Justice (*b*). But those *inquests* seem not to have been formed altogether on the English model. The notion of *venue*, which was so long ad-

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(*x*) In the 13th century Bernard Fraser evicted from his relation Maria of Hales the lands of Milnhalach, which he claimed as his heritage in the Earl of Dunbar's court, who was the superior of the lands. Chart. Newbotle, 101. During the reign of William a dispute, touching the lands of Duglyn, was determined by Seyer de Quinci, the superior lord, in his court at Leuchars in Fife. Chart. Cambusken., 78.

(*y*) It has lately been engraved at the expense of James Fergusson of Pitfour, M.P. for Aberdeenshire. The Earl transferred to the son of Uthred, with the lands, the "*nativis* et *incolis*, et omnibus "consuetudinibus," to the same lands belonging.

(*z*) The Earl, however, excepted, as to his own court pertaining, "vitæ et membrorum placita, "quando contigeret;" and John, the grantee, had to perform to the Earl and his heirs "liberum "servicium unius sagittarij et faciendo per annum tres sectas capitales curiæ meæ, de Ellon, cum "forensi servicio domini regis quantum pertinet." Yet is it said in the *Regiam Majestatem*, lib. iii., c. 25, that conform to the consuetude of the realm, no vassal should be compelled to answer touching his tenement or heritage in the court of his own lord without the king's precept or that of his justiciar. I must again protest against the *Regiam Majestatem* as an accurate code of the Scottish law, even during the recent times of its compilement.

(*a*) Chron. Melrose, 176; and Chart. Melrose, 89.

(*b*) In 1309 there was an inquest held before Robert de Keth, justiciary, in the north, for settling a dispute between the abbot of Lindores and the burgesses of Newburgh. One of the jury was objected to and removed, because he was the *servus abbatis*. Chart. Lind., 10.

hered to in England seems never to have been the law of Scotland (*c*). The juries were sometimes summoned in a manner very unlike that of England. Neither does it seem to have been necessary in the law of Scotland, though Lord Kames seems to conjecture otherwise, for the juries to be unanimous in their verdicts (*d*).

In aid of the law, which was not perhaps very strictly executed during rude times, ecclesiastical censures were sometimes used both in criminal and civil affairs touching the church (*e*).

Connected with the administration of justice are charters which were called for, as we have seen, in the earliest lawsuit. It was a principle which came down from the Celtic nations of antiquity to the Celtic people of Scotland, not to commit any thing to writing. This druidical maxim continued to influence every Celtic tribe till recent times. This oblivious prejudice proved fatal to the fame of the Celts, because it left their public history and private rights to uncertain tradition. The annals of the Picts and Scots were thus resigned to darkness, and their law to uncertainty. In this manner we may perceive that it was scarcely possible that there should have been a charter found in North-Britain till the end of her Celtic government any more than in Celtic Ireland *(f)*.

(*c*) The sheriff of *Banffshire,* William Moray, summoned an inquest at *Aberdeen,* in 1457, to serve Alexander de Drum, heir to Sir Alexander Irving of the lands of Forglen, in Banffshire. Chart. Arbroath, 210. In 1480, Sir Patrick Hepburn, the sheriff of Berwickshire, assembled at Edinburgh a jury of Berwickshire freeholders, to decide the claims of the Abbot of Melrose to some tofts and fishings at South Berwick. MS. Monast. Scotiæ, 42.

(*d*) Law Tracts, 78. In 1271, within the county court of Roxburgh, there was a jury summoned to try the right of the monastery of Soltre to a thrave of corn every harvest out of the manor of Crailing. The jury was summoned in the following manner:—The *sectators* of three contiguous manors of Eckford, of Upper Crailing, and of Heton, summoned each four good men from those three manors: the whole jury thus formed, who are called *antiquiores patriæ*, found that the brethren of the said house had very long been in use to receive the said thrave of corn. Chart. Soltre, 17.

(*e*) In 1258, the precentor of Scone, as viceregent of the prior of Coldingham, the *principal judge,* issued a precept directing the excommunication of Sir Patrick Edgar, for holding possession of a carucate of land at Home which belonged to the monks of Kelso. Chart. Kelso, 294. In 1291. Pope Nicholas IV. issued a bull which was directed to the Bishop of Dunblane, directing him to recover the debts which were due to the monks of Balmerino, "per censuram ecclesiasticum." Chart. Balmer., 67. During the reign of Robert Bruce, the Abbot of Kelso ordered the monks of Lesmahagow to excommunicate David Weir, who, with his accomplices, had violently entered within the sanctuary of that cell, and sacriligiously stolen from the dormitory of brother Nicolas Lamb, not only a sum of gold and silver, but divers jewels. Chart. Kelso, 487.

(*f*) I cannot concur with the learned Ruddiman in supposing that charters existed not only

Sir James Balfour pretends, indeed, to have seen charters of those Celtic times. But without a cross-examination, our antiquary, who was deluded by his passion for antiquity, is not to be credited. He transmitted to Dugdale a supposed charter of Malcolm Ceanmore, which that curious collector published without examination in his *Monasticon.* But this supposititious charter is convicted of forgery by its own context. There is a charter of Duncan also which has been preserved in the Durham archives, and is published in the Diplomata Scotiæ; yet whatever endeavours have been used to clear it from doubts it is still involved in the clouds of suspicion from its unsatisfactory appearance (*g*).

The epoch of charters in North-Britain is the late commencement of the Scoto-Saxon period. From this epoch we find real diplomas in the genuine charters of Edgar, of Alexander I. and David I., and their successors. The language of the Scottish charters was invariably Latin, in the same manner as it was of the judicial proceedings and of the laws in those times (*h*). The oldest document which I have met with in the Scottish language is a contract with the Magistrates of Edinburgh in 1387. But the *date* of charters is the great object, both as it tends to evince their genuineness and to assist chronology. Neither the charters of Edgar nor of Alexander I. have any dates. The foundation charter of the monastery of Selkirk by Earl David, their brother, is dated, singularly, while Henry reigned in England, and Alexander in Scotland, and while John was Bishop of Glasgow, and Herbert was Abbot of Sel-

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in the time of Malcolm III. and Malcolm II., but in the ages of Constantine IV. and of Gregory: he believes the Scottish historians when they write of such charters in such times. Introd. Dipl., § xix. I do not; nothing would satisfy me but the production of the charters for the purpose of examination. I apply this observation to the Scottish historians themselves, when they treat of the Scottish antiquities. I do not follow them, because I do not believe their fictions, and falsehoods, and improbabilities.

(*g*) Of Duncan, it is remarked by an able diplomatist that he was the first of the Scottish kings who appended a seal to the crosses of witnesses. Diction. Diplomatique, ii. 283. There is some reason to believe that this uncommon seal was affixed to the charter of Duncan long after it had been signed by its witnesses. There are a thousand objections to this charter of Duncan which stands alone in the Diplomacy of Scotland.

(*h*) Lord Hailes, indeed, under the year 1289, says, "at that time French was the language "of business, both in England and in Scotland. An., i. 187. All the chartularies for ages were written only in Latin: the French is never used; but, in the diplomatic intercourse with France and with England, sometimes: the treaties were generally written in Latin. The Latin of the charters is much mixed with Anglo-Saxon, and even with Gaelic words, particularly in describing local objects. The first charter in the Scottish that I have discovered is of the year 1398. There is in the chartulary of Cambuskenneth an award in the Scottish language of the year 1389.

kirk. The charters of David I. are generally without dates. He often mentions the names of the places where they were made. I have seen two of David's charters which have the year, and two the calends of the month when they were made. But, there is a charter of David's to Nechtan, the Bishop of Aberdeen, which, from the specialty of its *teste*, must undoubtedly be a fabrication (*i*). Some of David's charters begin, "David rex Scottorum;" but they generally begin, "David Dei gratia rex Scottorum;" the inscription on his great seal is, "David Deo rectore rex Scottorum." These notices carry us down to the sad demise of the virtuous David I. in 1153 A.D.

The charters of Malcolm IV. resemble those of his grandfather and predecessor in the modes of making them. They are generally without dates; and often they have witnesses without a date, or the place of giving them (*k*). He sometimes adjusts the chronology of his grants by the years of his reign. He is studious to remember at the dating of his charters, when he had received the honour of knighthood (*l*). There are three of his charters to the Bishops of Aberdeen *tested* by *himself* in person, *teste meipso* (*m*). If we may determine from the silence of the most intelligent Mabillon, and the French Diplomatists, that form of *teste* seems never to have prevailed on the European continent. It appears to have been peculiar to this island; and the gallant Richard, who succeeded Henry II. in 1189, was the first of the Kings of England who thought fit to witness his own grants by the form of *teste meipso* (*n*). This manner of testing charters by the king himself, was imitated by the kings in North-Britain (*o*). Malcolm IV. dignified himself by the title of *rex Scottorum*; but oftener by the more solemn expression of "Malcolmus Dei gratia rex Scot-

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(*i*) Chart. Aberd., 216; Orem's Hist. Aberd., 2. "Teste *meipso* apud Forfar, anno regni mei "decimo tertio, tricesimo die mensis Junii;" there were no such *particularities* in any real charters during that age.

(*k*) Chart. Glasg., 203-295-297-299; Chart. Scone, 33, &c.; Chart. Cupar, 1-2; Chart. Newbotle, 20, 21; Chart. Cambus., 54-199; Chart. Paisley, 8; Chart. Kelso, 2, &c.; Chart. Melrose, 56; Chart. Soltre, 25.

(*l*) See his charter to Walter, the son of Alan. Genealog. Hist. of the Stewarts, 5; Chart. Newbotle, 159-175: "me postquam *arma suscepi*: priusquam arma suscepi;" for such was the meaning of the *arma suscepi* in that age.

(*m*) Chart. of Aberd., 211-12-14; Chart. Morav., 255. There cannot then be a doubt touching the fabrication of those three charters, as well as the preceding one of David I., which was tested in a similar manner.

(*n*) Mabillon De Re Dip., 160. See an instance of the *teste meipso* of Richard in Madox's Formulare, 298. If the reasoning in the text be true, the Scottish charters which bear to be *teste meipso* before the year 1189 are obnoxious to strong suspicion of spuriousness.

(*o*) Rud. Introduct. And. Dipl. Scotiæ, § xii.

"torum:" the inscription on his seal is "Malcolm Deo rectore rex Scottorum." The design and ornaments of the great seals of Alexander I., David I., and of Malcolm IV., are exactly the same, with the mere change of names: each has an open crown upon his head: on the reverse of those seals, the sovereigns are mounted on horseback, and are armed at all points.

The charters of William, as his reign was long and active, are very numerous. They are generally executed at some place without a date; yet, many of them have the dates of the month and day. Two or three of those charters mention the year of the *incarnation.* Two of those charters which were granted to Mathew, the Bishop of Aberdeen, express suspiciously *the year of his reign* (*p*). William changed the form of the great seal, which had been in use during the three preceding reigns: he laid aside the crown for a bonnet: but the inscriptions are the same, with only the change of name (*q*).

The charters of Alexander II. and of Alexander III. are also very numerous. They generally bear in their dates the years of their reigns, and they often contain the well known date of our common era. On the great seal of Alexander II., he is bareheaded: but his shield is very remarkable for the rampant lion (*r*). Upon the seal of Alexander III., he appears on his throne, with the crown restored to his infant brow.

The epoch of *Jesus Christ* was introduced into Italy by Dionysius, in the sixth century. In the seventh, the same epoch was brought into France; but it was not here quite established till the reigns of Pepin and Charlemagne. This well known epoch was completely established in England during the eighth and ninth centuries (*s*). This epoch cannot be traced into Scotland till the beginning of the twelfth century, owing to the recent introduction of charters (*t*). The date of *the year of grace* first began to be used on the continent in 1132. Various and singular events were adopted among the best informed nations as appropriate epochs. These singularities were soon introduced into Scotland. David I. and his son Henry were attentive to date their grants from the day of the capture of their antagonist Stephen (*u*). The charter

(*p*) See the several chartularies. (*q*) Dipl. Scotiæ, 26.

(*r*) Dipl. Scotiæ, 30. (*s*) Smith's Bede, App., 21.

(*t*) There is in Smith's Bede, App., 20, a charter of Robert the Bishop of St. Andrews, which is dated as follows: "xvi. Kal. Aug. in Festo S^{ti} Kenelmi martiris an. ab Incarn. Domini 1127." Richard Morville, the constable, dated an acknowledgment to Ingelram, the Bishop of Glasgow, "a festo "Pentecost an. Dom. 1170." Chart. Glasg., 161. There is a charter of John, the Abbot of Kelso, dated an. Sal. 1170, and another of his an. Sal. 1178. Chart. Aberbroth., 34-35. A charter of Richard, the Bishop of Moray, was dated an. Dom. 1190. This form became very common among the dignified ecclesiastics in the subsequent century, as we may learn from the chartularies.

(*u*) Chart. Melrose, 54; Hutch. Northumber., App., 3 and 12.

of Innes was granted by Malcolm IV., on Christmas-day next, after the peace between the king and Somerled (*x*). The dignified ecclesiastics, forgetting the birth of the son of God, were studious to commemorate the birth of the son of their king; there was an indenture executed between Roger, the Bishop of St. Andrews, and Henry, the Abbot of Arbroath, in the first year of the birth of the king's son, [1198] (*y*). In 1208 the Abbot of Melrose dated a charter in the tenth year from the birth of Alexander, the son of William (*z*). Alan, the son of Walter, the Steward, approved of a long lease of three-and-thirty years, which was made to commence from the feast of St. Martin, next after the departure for Jerusalem, of Philip, King of France, and Richard, the King of England, which happened, saith the record in the year 1190, from the incarnation of our Lord (*a*). Parliamentary proceedings even assumed such fanciful and perplexing epochs. An assize was made by William, at Aberdeen, forty days after the coming of Vivian, the legate, into Scotland (*b*). An assize was made by the same legislator, at Stirling, on Monday next before the feast of Margaret, the virgin, after the first coronation of Philip, King of France (*c*). An assize was made by William, at Perth, in the year wherein the Duke of Saxony first came into England (*d*). A constitution was made at Perth by Alexander II., after the king had been at Inverness against Donald Neilson (*e*).

In every inquiry, with regard to charters, the *seal* is of great importance. In France, except among the great feudaries, such as the Earls of Flanders and the Dukes of Normandy, seals did not become common among the prelates and nobles till the year 1150. The Bishops of St. Andrews had their seals as early as 1122 if not earlier (*f*). Thor-longus, a courtier of Edgar, had his seal, which is affixed to his charter in favour of the monks of St. Cuthbert (*g*). The charter of Waldeve, the son of Gospatric, to Helie of Dundas, which was granted between the years 1166 and 1182, had his seal (*h*). There are two charters of Richard Morville, the constable of Scotland, which seem to have

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(*x*) Dal. Col., 425; Shaw's Mor., 391; yet is it difficult to settle this epoch; this peace was probably made in 1155.

(*y*) Chart. Aberbroth., 93.

(*z*) Chart. Melrose, 26.

(*a*) Chart. Kelso, 247.

(*b*) The Berne Collection. Vivian came into Scotland in 1177 A.D.

(*c*) The Berne Collection. This happened in 1179, yet Skene gave this assize mistakingly to Alexander II.

(*d*) That event happened in August, 1184. Lord Lytt. Hist. Hen. II., iii., 392.

(*e*) Skene, 17. That event happened in 1228 A.D.

(*f*) See the seal of Bishop Richard in And. Dipl. Sco., pl. 100, and the seals of his successors, Arnold in 1158, Richard in 1163, Roger in 1188, and William in 1202.

(*g*) Ib., pl. 69.

(*h*) And. Dipl. Scotiæ, pl. 73.

no seals (*i*). Roland, the constable, seems to have had no seal (*k*). There is a charter of Walter de Berkeley, the chamberlain, which is witnessed by Roland of Galloway, who died in 1200, and which has a very curious seal, either of his family or office (*l*). There are charters of Gospatric, Comes, who died in 1147, and of Gospatric, the younger, who died in 1166, which have seals appendant (*m*). But seals were not used in Scotland by less considerable persons till a much later age. David Olifard, who was justiciary of Lothian, under William, had a seal which he appended to his charters (*n*). But in that age, the seal of the grantor was not deemed sufficient by the parties ; and it was the practice to request that the seals of respectable strangers might be also appended to the deed. Helena, the daughter of Alan, Lord of Galloway, subjoined to her charter to the church of Glasgow, her own seal with the seals of William, the Bishop of Glasgow, and of Henry, the prior of St. Andrews (*o*). In 1226, Maldowen, the Earl of Lennox, thought it necessary to confirm his charter by appending the seals of respectable men (*p*). It was also the practice of that rude age to procure honourable *fide jussores*, for the faithful execution of the deed. In 1237 the Abbots of Newbotle and Holyrood, entering into an agreement, thought fit for the greater security to procure the guarantee and seal of Alexander II. (*q*). Duncan, the Earl of Carrick, impressed with sense of gratitude for the loan of forty marks from the monks of Melrose, during his necessity, conveyed to them the lands of Maybothil ; and beseeched the Bishop of Glasgow to be his security, that he would not revoke his deed.

(*i*) Ib., 75. (*k*) Ib., 81.

(*l*) Ib., 77. The legend states him to have been the "Camerarius regis Scottorum." There is a charter of Walter de Berkeley, which was witnessed by Robertus, "*clericus*, qui *hanc chartam fecit.*" Diplom. Scotiæ, pl. 77.

(*m*) Ib., 71. (*n*) Chart. Glasg., 247. (*o*) Chart. Glasg., 251.

(*p*) Ib., 378. In 1277 Maurice, the laird of Luss, appended his own seal to his charter, but thought it necessary to procure the seal of the official of Glasgow. Ib., 438. In 1270 Robert de Lanark, the subdeacon of Glasgow, to his own seal caused to be subjoined the seal of the Dean of Glasgow, with the common seal of the city. Ib., 441. Margery de Forgrund of Berwick, because her own seal was but little known, procured, to be appended to her deed, the seals of the Abbots of Jedburgh and of Dryburgh. Chart. Kelso, 30. In the same manner William Lord of Home in 1268 subjoined his own seal, but as it was little known he procured to be affixed the official seals of the Archdeacon of Lothian and of the Dean of the Merse. Ib., 131. Other persons having no seals procured the seals of some higher character or public body to be affixed to their deeds. Ib., 49 ; Chart. Newbotle, 54. In a charter to the Abbot of Paisley by John Smalwood he says : "In witnesyng of y^e qwylk thing, in de-"fault I haif na seyl of my awyn, I have procurit with instanss y^e seyllis of worschipfull men." Chart. Paisley, 217.

(*q*) Chart. Newbotle, 180.

The grantors often swore in the face of the church, that they would not invalidate their own acts (*r*) ; and the same Earl of Carrick calls down upon himself the censures of the church, if he should ever revoke his conveyance before mentioned to the monks of Melrose (*s*). Such were, in those times, the juridical manners, which seem to imply that the juridical practice was not quite sufficient for the useful ends of substantial justice.

In this manner then, was effected a revolution in the law of Scotland. The Celtic customs which universally prevailed there, at the sad demise of Donalbane, were changed, though by a very slow progression to feudal usages, yet not of the rigid sort, which is supposed by recent writers. If the year 1097 were the epoch of the commencement of that change, and the year 1747 were the era of its consummation, it would follow from those dates that the complete establishment of the municipal law of Celtic Scotland required the repeated efforts of six hundred and fifty years.

(*r*) Chart. Melrose, 10.

(*s*) Chart. Kelso, 109-10.

CHAP. V.

Of Manners during this Period.

FAITHFUL representations of manners exhibit the most agreeable scenes, which either exhilarate or sadden the annals of a people. When Donal-Bane ascended the throne of his brother, the English, who had crowded about Margaret and Malcolm, were forced to depart (*a*). From this savage measure says the late Lord Hailes, we may conclude that throughout the reign of Donal, it was the great national object to efface civility in Scotland (*b*). But his premises do not warrant his conclusion. The expulsion of the English on that occasion, as it was the obvious consequence of national antipathy, was not so much the act of the governors, as the prejudice of the governed. The fact is curious ; yet we can only infer from it that the Scottish people regarded the English as strangers who spoke a different language and practised unsuitable manners. The assassination of Duncan, who threw Donal from his throne ; the subsequent imprisonment, and the blinding of Donal by his conqueror, are memorable events which were the necessary effects of savage habits. Of David I., it was the remark of Malmsbury, "that his manners "were polished from the rust of Scottish barbarity, by his early converse with "our countrymen (*c*)." The sarcasm of the English historian, though it may have been exaggerated by his prepossession, evinces that the manners of the Scottish people appeared to an intelligent observer of a different country to be less refined than the habits of the English (*d*). David enjoyed from the bounty of Henry I., a corody of seventy shillings and eight-pence, out of the bishopric of

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(*a*) Sax. Chron., 199 ; Sim. Dur., 220. (*b*) Annals, i. 47. (*c*) W. Malmsbury, 158.

(*d*) When the Papal Legate, in 1138, obliged the Scottish army, under so benificent a prince as David, to engage "neither to violate churches, nor to murder any who were incapable, from age or "sex, of making resistance, and to restore the women whom they had driven into captivity," what a dark picture does that obligation exhibit of the people and the age. Devastation was, indeed, the English mode of making war on Scotland during the more refined times of Edward I.

Durham, which was in the king's hands by the death of Ralph Flambard in 1128 (*ee*).

In every inquiry we must constantly distinguish between the Gaelic and the English inhabitants of North-Britain (*e*). The former were the most numerous during the whole extent of the Scoto-Saxon period. The government was administered during this period by Scoto-Saxon princes upon Anglo-Norman principles with the help of Anglo-Saxon barons. To those sources must be traced up the maxims of the governors and the customs of the governed. Chivalry with its notions and pursuits were no sooner introduced by the Normans into England than they were adopted by the Scoto-Saxons of North-Britain. Before the reign of Malcolm IV. it had become a sort of maxim that a prince could scarcely be considered as a king till he were made a knight. The youthful grandson of David I., who was intent on his favourite object of obtaining the honour of knighthood, passed over into France and showed how much he merited that honour by fighting under the banners of Henry II. (*f*.) This notion was so completely established before the accession of Alexander III., that it was deemed by statesmen as well as by prelates, unfit, perhaps unlawful to crown their sovereign till he had been knighted. Walter Cumyn, the manly Earl of Menteith, put an end to that pernicious conceit by insisting that the Bishop of St. Andrews should at once knight and crown the infant king (*g*). The barons in this respect followed the knightly example of their sovereigns by seeking knighthood through many a hazardous field at the peril of life.

But chivalry did not exist in Celtic Scotland, neither that romantic fashion nor armorial bearings, its necessary concomitant, were known here at the commencement of the Scoto-Saxon period (*h*). William the Lion is said to be the first Scottish king who assumed the lion rampant for the national badge (*i*). Fable carries back the origin of this armorial bearing to a grant of

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(*ee*) Madox's Bar., 79.

(*e*) To the former race may be referred a charter of Nigel, the Earl of Carrick, making Roland de Carrick and his heirs the chief of his clan in all affairs of *Kinkynel*, with the office of Baillie of the same territory. This charter was confirmed, in 1276, by Alexander III. Crawford's Officers of State, 21.

(*f*) Angl. Sacra, i. 61; Hoveden, 492.

(*g*) Fordun, lib. x., c. 1; Lord Hailes's An., i. 164.

(*h*) See before, book iii., ch. 10. There were no armorial bearings in France at the commencement of the twelfth century. Mabillon in his Posthumous Works.

(*i*) Lord Hailes's An., i. 141; yet antiquaries have remarked that the lion does not certainly appear on the seal of William, and probably not on his shield; but the intelligent Nisbet observes that the wrong side of the shield is presented. *Essay on Armories*, p. 18; and see Lewis

Charlemagne. History acknowledges her ignorance of this far-fetched derivation by her silence. Archæology at length comes forward in support of her two sisters, Genealogy and History. William, she insists, was the son of Earl Henry, who was the son of Maud, who was the daughter of Waltheof, the Earl of Huntingdon and Northumberland. Now Waltheof had a lion rampant for his arms, which was also the arms of Northumberland and of Huntingdon (*k*). Earl Henry equally carried the same arms as the representative of Waltheof in both those earldoms (*l*). William enjoyed his father's rights. How much he risked and lost in prosecuting his claims on Northumberland we have already seen. From the foregoing intimations we may infer that it was by those descents the lion came into the armorial bearings of the Scottish kings; and that the lion rampant was the badge of Northumberland and of Huntingdon before the king of beasts was adopted into the escutcheon of North Britain. The lion, however, was the cognizance of Galloway and perhaps of all the Celtic nations, as we may learn from Gebelin. The lion rampant appears distinctly, for the first time, on the shield of Alexander II. (*m*). The nobles of Scotland carried similar devices on their seals and shields as early as the reign of William (*n*). Before the conclusion of this period the Scottish bishops quartered the arms of their families with the badges of their sees (*o*). The establishment of heralds with a lord lion at their head is undoubtedly of a much more modern date, although the origin is obscure (*p*).

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on Seals, 21-2, for the same position. Leland has preserved "An oulde Roule of Armes," v. ii., 610, which is said to be of the age of Henry III., and which the context evinces to be as *oulde* as the reign of Edward I.; and it describes the arms of Scotland thus: "Le roy de Scosce dor a "un lion de goules a un bordure dor flurette de goules." In this description we see nothing of the *double tressure*.

(*k*) See Speed's Prospect, No. 46, and the map of Northumberland, No. 30; Yorke's Union of Honour, 164-5.

(*l*) Idem.

(*m*) Ander. Dipl. Scotiæ, pl. xxx.; and the Introd., p. 54. It is said, however, that Richard I. was the first of the kings of England who had any charge or device on his shield. Lewis on Seals, 20-1.

(*n*) See Astle's curious work on *the Scottish Seals.*

(*o*) Ander. Dipl. Scotiæ, pl. c.; Astle's Scottish Seals, No. iii.

(*p*) The silence of Sir George Mackenzie and of Nisbet in their respective works on the Heraldic Science, shows the dark cloud which covers the origin of the Lord Lyon and his Heralds from our view. At the memorable coronation of Alexander III., in 1249, there is not any trace of those heraldic officers being present when their assistance would have been peculiarly useful. There is a very minute account of this coronation in Fordun, l. x., c. 1-2; and see Nisbet's Heraldry, part iv., ch. 11, who quotes a record which Sir James Balfour is said to have found, with his usual luck, in the ruins of the monastery of Scone. When Alexander III. met Edward I.

It was from the same maxims of chivalry, connected as it was with feudism, that the Scottish kings willingly obeyed the summons which was sent them, in those times, to attend the coronation of the English kings. Neither Edgar, however, nor Alexander I., attended such splendid but degrading ceremonies; as they do not appear to have been English barons. David I., indeed, visited the court of England, while a youth, from motives of friendship rather than from maxims of feudality. Yet, after his marriage he became Earl of Huntingdon; and from this relation owed attendance on the English kings, his feudal superiors. Malcolm IV. spontaneously attended Henry II., and received a compensation for his services (*q*). William the Lion obeyed the summons of Henry II., as a feudary, and of Richard I., as a friend (*r*). Alexander II., and Alexander III. attended the courts of Henry III., and Edward I., merely as

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at Westminster in 1278, he was not attended by a *lyon herald*, though he had his harpers and minstrels. The first authentic notice which I have discovered on this curious subject is at the coronation of Robert II., on the 27th of March, 1371: "Then the Lion King of Arms was "called on by the lord Mareschal, who [the Lion] attended on by the heralds came in their coats. "The Lion sat down at the king's feet, and the heralds went to their stage prepared for them; "and then the Mareschal, by the mouth of the Bishop of St. Andrews, did swear the Lion, "who being sworn, then did put on his crown ordained him to wear for the solemnity," &c. From an ancient MS. in my library, containing an account of the coronation of the Scottish kings. The ceremonial of the coronation of Charles I. at Edinburgh is in the Museum, Harley MSS., No. 4707. The Lyon king appeared here conspicuous: "Having a crown upon his head, he "carried in his hand the vessel containing the sacred oil. Two heralds walked on either side of "him, the trumpets sounded, and so they marched." The Lyon King of Arms was much employed as a negotiator with England during the fifteenth century either for treaties of peace or proposals of marriage. In 1474 his signature was "Lyon R. Armorum." In 1485 his signature was "Lyon Kyng of Arms." Rym. Fœd., t. xi., 383, 814, 836; t. xii., 41, 171, 233-4-5, 243-46. The Lyon King attended upon the Earl of Bothwell when that nobleman affianced by proxy for James IV., the Princess Margaret of England in 1503. Sir David Lyndsay, who is better known as a poet than a herald, was much employed as Lyon King by James V., when Henry VIII. sent Sir Ralph Sadler to Edinburgh. Sadler's Letters, 23, 25, &c.

(*q*) In the 3rd of Henry II. [1157] the Sheriff of Devon was allowed £72 19*s.* 10*d.* for a corody paid to the King of Scots. Madox. Excheq., i., 207. As Malcolm was born in 1141, he was only twelve years of age when he succeeded his grandfather. Yorke says, in his Union of Honour, 165, "That Malcolm was the *ward* of Henry II." He means, perhaps, a ward in a feudal sense as an English baron.

(*r*) In 1194 Richard I., by a charter under the Great Seal, made what may be called an establishment for William and his successors when they should attend the court of England. They were to have a hundred shillings sterling a day on their journeys coming and going, thirty shillings a day while they remained. They were to have daily twelve wastel cakes and twelve simnel cakes, a proportion of wine, pepper, spice, wax, and candles; and the honourable mode in which they were to be conducted on their journeys by the bishops and sheriffs is also settled. Rym. Fœd., i., 87.

English barons; and were furnished with money for their expenses and attendance in journeying through England (*s*).

The attendants of the Scottish kings on their journeys to England, were very numerous. In 1251, when Alexander III. married the princess Margaret, the daughter of Henry III., sixty barons and knights, beside other gentlemen, with harpers and minstrels attended the Scottish king to York (*t*). The same spirit of chivalry which gave rise to so great an attendance, also induced the barons bold to dress most splendidly. At the same time, the common people, both Gaelic and Scoto-Saxon, were but wretchedly dressed, fed, and lodged. The climate of the north was felt to be severe, by those foreigners, who did not fortify themselves with the hardy exercises of the natives (*u*).

The manners of the age introduced a singular sort of very coarse practices, even among kings. When William the Lion and King John re-established their peace in 1209, William delivered his daughters, Margaret and Isabel, to the English king, who promised to provide them in suitable marriages. The Scottish statesmen affirmed what the English parliament acknowledged that, by the agreement, Henry and Richard, the sons of John, were to marry the two princess. They were afterwards married, however, to English barons, according to the practice of those times; Margaret to Hubert de Burgh, the justiciary, in 1222, and Isabel to Roger, the son of Hugh, Earl Bigot, in 1225 (*x*). When the Scottish queen, the daughter of Henry III., went to her father's court to lie in of her first child, the Scottish statesmen demanded, and received security, that her father would not detain either the queen or her infant (*y*).

The mode of living, the virtues, the vices, of those people in South and North Britain were nearly the same; as they were of the same extraction. The diversions of the nobles were analogous to their warlike manners. Tour-

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(*s*) Ib., i., 87, 203, 224, 228, 256, 278, 306, 348, 428, 466. William de Braoso was charged in the Exchequer, in the 8th of King John, ten bulls and ten cows, as he declined to go into Scotland and conduct the Scottish king to England. Madox's Exchequer, i., 461.

(*t*) M. Paris, p. 555.

(*u*) Pope Nicholas, who died in 1280, granted a bull to the monks of Lindores, "*de bonetis utendis,*" empowering them to wear silk caps in processions and public worship, as they frequently took cold "in terra frigida." Chart. Lindores, 23. The principal men of the country at that time wore bonnets of cloth. William the Lion appears on his seal with a bonnet.

(*x*) Geoffry Fitzpeter offered ten palfreys and ten hawks that the King of Scotland's daughters might not be committed to his care. Madox's Exchequer, i., 462. See Rym. Fœd., i., 278. Alexander II. had the wardship of Earl David, for which he paid a hundred marks. Madox's Exchequer, i., 325. The same king gave five hundred marks for the wardship of his nephew, the heir of Hugh Bigot, the Earl of Norfolk. Id.

(*y*) Rym. Fœd., i., 714-15.

naments were the most splendid; hunting was the most frequent of their amusements. The kings were the great hunters, in imitation of the Norman sovereigns of England; and they had in every shire, a vast forest with a castle for the enjoyment of their favourite sports *(z)*. The kings had for every forest, a forester, whose duty it was to take care of the game, though we hear little of the severity of the forest laws in Scotland (*a*). The bishops and barons had also their foresters with similar powers. The kings had their falconers (*b*). The prelates and the nobles had also their falconers, who managed their birds of prey. The king had his *baker*, who appears to have been

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(*z*) Earl David gave to the monastery of Selkirk the tenth of the skins of the bucks and does, which his huntsmen and hounds should take. Chart. Kelso, No. 4; Dal. Col., 404. David I. made a similar grant to the monastery of Kelso. Chart. Kelso, No. 1. He granted to the monastery of Dunfermline the tenth of all the venison which should be taken by his huntsmen between Lambermore and Tay. Dal. Col., 385. MS. Monast. Scotiæ, 105. Earl Henry followed his father's example in making a similar grant to the monastery of Jedburgh of the tenth of the venison killed in Teviotdale. Ib., 27. Malcolm IV. granted to the monastery of Scone the tenth of all his venison which should come to his house from the north of the *Tei.* Chart. Scone, 10. When William settled the limits of his forest between the Gala and the Leader, wherein the monks of Melrose had from him a right of pasturage, the king reserved to himself and his heirs his beasts and birds of venery. When Walter, the son of Alan, granted to the monastery of Paisley the lands between Aldpatric and Espedere, he reserved the birds and game. Chart. Paisley, 46. Robert Avenel, who lived under William the Lion, granted to the monks of Melrose his lands in Eskdale, reserving to himself and his heirs, "cervum & cervam porcum, & capreolum," and also hawks with their nests, with a provisio that the monks should not hunt there, nor place any gins or snares, except for catching *wolves.* Chart. Melrose, 91. There was published by Skene, in 1609, a body of *Forest Laws,* from a MS. in the hands of Sir David Lindsay, one of the Senators of the College of Justice; and they are herein said to have been the legislative work of William the Lion; but the context shows them to be a more modern compilation, and we see nothing of them in the Berne MS. of the Scottish laws. It became common, however, during the reign of Alexander, the son of William, to obtain royal grants of *free forest* and *free warren,* by which every person was prohibited from hunting in those privileged grounds without the leave of the owner. Alexander II., and his successors, granted many charters to the abbots, as well as to the barons, erecting such forests, as we see in the Chartularies.

(*a*) LL. For., c. 15-22. David I. granted a part of the lands of Blainslee, on the Leader, to his forester who had the charge of his forest between the Gala and the Leader. Chart. Antiq. Bibl. Harl. In his charter to Holyrood, David speaks of his foresters in Stirling and Clackmannan shires. Mait. Edin., 155. The king also had a general forester. Nigel de Heris was general forester to Alexander II. Chart. Newbotle, 30.

(*b*) Ranulph was called by William the Lion "Falconarius noster." This office became hereditary in the family of Ranulph, who is progenitor of the Falconers of Halkerton. Dougl. Peer., 323. As late as the Gowrie conspiracy against King James, we may see Sir John Ramsay cast the king's hawk from his fist when he was about to give the Earl of Gowrie his mortal stroke. The king put his foot on the hawk's leash to prevent her escape even at that critical moment.

a person of consequence who merited encouragement (*c*); and there was also a royal *brewer*, probably at each of the king's castles (*d*). The nobles and prelates, and abbots, followed as usual, the royal example during those ages of rudeness and hostility. Of the domestic pastimes of those rustic times, there are but few notices. When David led his army to the battle of the Standard, in 1138, his varied people were amused by jesters, buffoons, and dancers, as we know from the contemporary Aildred (*e*). The amusements of the same sort of people in the two kingdoms were pretty much the same, during those congenial ages. As the English kings had their minstrels, so had the Scottish kings their harpers, their trumpeters and minstrels (*f*).

There were other manners which will be contemplated with some complacency. In 1232, Patrick, the Earl of Dunbar, who had married Ada, the daughter of William the Lion, a baron, who was known for his warlike exploits, invited his children and relations and neighbours to celebrate Christmas at his castle. After four days festivity, he sent for the Abbot of Melrose,

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(*c*) King William granted to Aileif, "*Pistori meo,*" the whole land in Inverleith, which Reginald, "*Janitor Castelli de Edinburg,*" had held of the grantor. Sinclair of Roslin's Title-Deeds. William confirmed this grant to the son of Aileif. Their posterity became distinguished by the name of *Baker*. Nicolas Baker resigned to Alexander III. the lands of Inverleith, that he might grant them to Sir W. de Sinclair. Id.

(*d*) King William granted to Walkelin, "*Braciatori meo,*" the lands of Inverpeffer, in Forfarshire, to be held of the monks of Arbroath. Chart. Arbroath, No. 6.

(*e*) Even Edward I. amused himself at Carlisle, in 1300, by seeing Martinet of Gascony *play the fool* before him. Wardrobe Account, 166, which attests the payment of two shillings to the Gascon buffoon.

(*f*) Ib., 95, 163-6-8. It appears from this record that the king and queen of England's minstrels accompanied them into Scotland during the campaign of 1300. During a prior age, the harper, the trumpeter, and the minstrels of Alexander III. accompanied him to London. In 1278, there was paid to Elye, the King of Scots harper, as the gift of Edward I., 60s.; to two trumpeters of the King of Scots, 40s.; to two minstrels of the King of Scots, 26s. 8d. There were also paid, as the gift of Edward, 53s. 8d. to four minstrels of Scotland. These curious notices are from the wardrobe account of the 6th Edw. I., in the Tower. In 1296, there was a precept for Elia and Uchtred, *le Harpour*, "de terris liberandis." Ayloffe's Cal., 115. At the coronation of David II., in 1329, there were paid to minstrels by the king, £20, and by the queen, £10, as we learn from Davidson's Chamberlain's Accounts. There is sufficient reason to believe that the great barons entertained in their castles minstrels and bards. Patrick, the eighth Earl of Dunbar, who died in 1294, amused himself with the poetry and prophecy of Thomas of Erceldoune, the principal poet and prophet of his age. It can no longer be doubted whether Thomas de Erceldoune, who died in 1298, were a real personage, as we see both the poet and his son in record. The Earls of Dunbar were superiors of the whole territory of Erceldoune. Chart. Dryburgh. Thomas the Rymour of Erceldoune, and his son Thomas, held *a part* of the lands of Erceldoune under the Earl of Dunbar, whose vassals they were. Id.; and Chart. Soltre.

received extreme unction, assumed the monastic habit, bade his guests farewell, and died in the serene evening of active life (*g*). He had examples of greater men, who retired from the satiety of wretched government to the quiet of monastic enjoyments. Fergus, the prince of Galloway, withdrew from the misfortunes of his country in 1160, to the monastery of Holyrood at Edinburgh, wherein he assumed the canonical habit and died (*h*). In a rude age, inferior men resigned their lands to the monks for a decent provision within their houses, which furnished amusement, instruction, and pardon (*i*).

The education of such a people was analogous to their manners. At the conclusion of the Scottish period, the ancient school of Abernethy was famous in Gaelic Scotland (*k*). As early as the reign of David I., schools seem to have existed in the principal towns of North-Britain. The monks who were ambitious to engross the education of the youth, obtained grants of the principal seminaries (*l*). The children of the most honourable parentage were

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(*g*) Chron. Melrose, 201 ; L. Hailes's An., i., 302.

(*h*) Anglia Sacra, ii., 161. Fergus died in 1161. Ib., 162. Robert Avenel, who granted a large portion of his lands in Eskdale to the monks of Melrose, retired into their house, where he spent the autumn of his life, and died in 1185. Chron. Melrose, which calls him "Novicius "familiaris noster." Yet a vassal could not retire into a religious house without the consent of his superior. Henry de St. Martin, who held some lands of Walter the first Stewart, found it necessary to obtain a special license from his lord before he became a monk of Paisley, which Walter had founded ; and Walter, the son of Alan, confirmed to the monks the lands which St. Martin had granted them when he meditated on his retreat into the monastery of Paisley. Chart. Paisley, 22.

(*i*) In 1311 Adam de Dowan, senior, resigned his lands of Greenrig to the abbot and monks of Kelso, and they obliged themselves to support him in victuals in their monastery of Lesmahagow, and to give him yearly a *robe* or one mark sterling. Chart. Kelso, 195. The Abbot of Kelso, in consideration of the resignation of his lands of Fincurrocks, granted to Reginald de Currocks their lands of Little Kype, together with decent maintenance in victuals for him and a boy within their monasteries of Kelso or Lesmahagow. Ib., 196-7. The Abbot of Kelso granted to William Foreman during life, a corody of meat and drink, such as a monk received, with a chamber and bed and clothes, and grass for a cow. Ib., 540. Andrew, the son of Reginald, got a pension of four marks a year from the Abbot of Kelso, in consideration of his resigning to the monastery his tenement in Little Kype. Ib., 533.

(*k*) Crawford's Officers of State, App., 430.

(*l*) David I. granted to the monastery of Kelso all the churches and schools in the borough of Roxburgh, with their pertinents. Chart. Kelso, No. 1. "Thomas *Rector scolarum* de Rokes- "burc" was a witness to a charter of William, the son of Patrick, the Earl of Dunbar, in 1241. Ib., 238. Richard, the Bishop of St. Andrews [from 1163 to 1173], confirmed to the monks of Dunfermline, "Ecclesiam de Pert et *scolam* ejusdem ville, et ecclesiam de Strivelin et *scolam* ejus- "dem ville." Sir L. Stewart's Coll., Advocates' Lib., No. 45. Adam, "*magister scolarum* de "Perth," appears as one of the commissaries of Innocent II. who were to settle the dispute about educated in the monasteries (*n*). The abbots had liberality enough to encourage the scientific studies of the monks, in order to qualify them to be the instructors of youth (*o*). What knowledge of medicine existed during the Scoto-Saxon period cannot now be known. King William, during a long life and declining age, had several physicians, who appear as witnesses to his charters (*p*). We may also see physicians witnessing the charters of the bishops and barons, and receiving recompense in land (*q*). It is probable that the monks

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the churches of Prestwick and Sanquhar. Chart. Paisley, 120. The Deans of Carrick and Cunningham, "et *magister scolarum* de Are," gave judgment in 1234 against Dufgal in pursuance of a mandate from the Pope. Ib., 284. The rector of the school of South Berwick acted as one of the commissaries of the abbot of Dunfermline in 1279. Chart. Kelso, 343. At Aberdeen there were well regulated schools before the year 1256. Orem, 28. The statutes of the church of Aberdeen, which were enacted in that year, directed that it should be the duty of the Chancellor of the Chapter to attend to the regimen of the schools, and to see that the boys were taught *grammar* and *logic*. Chart. Aberd., 74, 80, 81.

(*n*) Matilda, the lady of Moll, granted in 1260 her thirds in the lands of Moll to the abbot and monks of Kelso, on condition that they should board and educate her son with the best boys who were entrusted to their care. Chart. Kelso, 114.

(*o*) There is the form of a license by the Abbot of Kelso, empowering a monk to study any liberal faculty or science within the realm of England. Chart. Kelso, 476.

(*p*) A charter of King William, which was granted between 1189 and 1199, is witnessed by Henry the *Physician*. Chart. Glasg., 269. Other charters of the same king are witnessed by "Nicolas *Medico meo*." Chart. Arbroath, 79; Chart. Kelso, 404. A charter of William, between 1211 and 1214, is witnessed by Mr. Martin and Mr. Radulph, "*Medicis meis*." Chart. Arbroath. Mr. Martin, the *Physician*, also appears in a charter of Richard, the Expensarius of King William. Chart. Soltre, 22. The skill of Ness, a physician, obtained from David de Hastings, the Earl of Athole, and Fernelith, his Countess, a grant of the lands of Dunfolenthim in Athole. Ness became the physician of Alexander III., and he bestowed his lands of Dunfolenthim on the monks of Cupar for the salvation of his benefactors, the earl and countess of Athole. Chart. Cupar, 69. On the 3rd of June, 1282, Alexander the Prince of Scotland wrote a letter to his uncle Edward I., recommending Mr. Adam de Kirkcudbright, who had been the physician of Robert de Brus, but was now in the service of the king his father, and of himself, and who had cured him, the prince, of a dangerous disorder, contrary to the opinion of the other physicians. Rym. Fœd., ii., 206.

(*q*) A charter of Fulco de Sules, in the end of King William's reign, is witnessed by John the *Physician*. Chart. Newbotle, 47. A charter of Cuming, the son of Henry, Earl of Athole, in the reign of Alexander II., is witnessed by his chaplain, his clerk, and Mr. John, the physician. Chart. Cupar, 34. A charter of William, the Bishop of Dunblane, in the beginning of the thirteenth century, is witnessed by Mr. Symon, the *Physician*. Chart. Cambusken., 127. The talents of Antony, a *Lombard physician*, procured him a settlement in Renfrewshire under Alan, the son of Walter the Stewart, who granted him the lands of Fulton. Chart. Paisley, 27.

studied the healing art in their monasteries, though perhaps with not much success (*r*).

We may easily suppose, that the speech of the inhabitants derived a cast from the tongues of the masters, who were not always natives of North-Britain. At the beginning of the Scoto-Saxon period, the universal language of Scotland, if we except the speech of Lothian, was Gaelic (*s*). It is an instructive fact, that Malcolm Ceanmore spoke the English language as well as his own. His children, as they were educated by their Saxon mother, probably spoke the Anglo-Saxon tongue with a Gaelic accent (*t*). If it were required to state, expressly, what language was spoken by Edgar, Alexander I., and David I., the answer must be, that they spoke the same tongue as Henry I., though with less purity and more rudeness (*u*). The language of the Saxon Chronicle, which was concluded at the demise of David I., may be considered as an adequate specimen of his Saxon speech (*x*). The English language began to be formed under Henry III., who was contemporary with Alexander II. and Alexander III. (*y*). It will be seen hereafter, that the language which was

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(*r*) There is at the end of the Chartulary of Kelso a Treatise on the *Pestilence*, which seems to have been copied therein about the end of the fourteenth century, in the Scoto-Saxon language of that age: "Her begynys a nobyl tretyse made of a gud phesician John of Burdouse for medicene agayne ye pes-" tilens iwyll. And it is departyt in iiii partis. Ye fyrst tellis how a man sal kepe hym in tyme of "pestilens yat he fall nocht in to ye iwyll. Ye secund chapet. tellis how yis sekenas comys. Ye iii "chapeter tellis medicene agayne yis iwyll. Ye ferde tellys how he sal be kepyt."

(*s*) See before, Book iii., ch. 9.

(*t*) The language of St. Cuthbert, and of the people of Tweedside, among whom he was born, was the Saxon of Bede's history. The speech of Eadfrid, the second Bishop of Lindisfarne, from Cuthbert, was—

"Vren Fader thic arth in heofnas:"
Our Father which art in heaven.

See Camden's Remains, p. 15. This great antiquary gives another specimen of the language of the tenth century: "Thu vre fader the eart in heofenum." There is, in Smith's Bede, a series of Saxon charters, which show the language of Northumberland and of Tweedside during the eleventh century.

(*u*) There are *Saxon* charters of Henry I. in Somner's Canterbury.

(*x*) Gibson's edition, 243-4. It is to be understood that some of the last pages of this invaluable chronicle are regarded as proper examples of the Scoto-Saxon language of the age of David I.

(*y*) There is in the *Textus Roffensis* of Hearne, p. 391, and in other books, a Proclamation in the *English* language of the 43 Henry III., 1259: "Henry thurg Godes fulcume King on Eng" "lene loande Lhoaverd on Yrloand, Duk on Norm' on Aquitain and Eorl on Aniow send i gretinge "to alle hise holde islande: That witen ye well alle." In the Chartularies, during the Scoto-Saxon period, we may see Scoto-Saxon *words*, but not *sentences*: *Acre*, the well-known measure commonly written in England, at the demise of Edward I., was exactly the same with the Scoto-Saxon, that was written in North-Britain at the same epoch (*z*).

The mode of writing in the two nations, as well as the style and sentiment, was exactly the same as we may see in the Chartularies. The art of writing was scarcely practised in Celtic Scotland. The commencement of the Scoto-Saxon period is the epoch of charters in North-Britain, as we have seen. There is a series of such charters in the *Diplomata Scotiæ.* The Chartularies contain a greater variety of such *Diplomas*, which evidence private transactions, and illustrate national manners.

At the beginning of the Scoto-Saxon period, the names and titles of men were very imperfectly formed. In Celtic Scotland, neither titles from lands, nor appellations from families were known. Yet, is it said, by those antiquaries, who refer the origin of every uncertainty to the obscure age of Malcolm Cean-

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of land; *Marc, Merc,* the denomination of money; *Burg,* a castle, as in Edwines*burg,* Rokes*burg: Burn,* a rivulet; *Dene,* a small valley; *Wade,* a meadow; *Wde, Wode,* a wood; *Birc,* birchwood; *Circ,* a church, as in Seles*chirc,* Ash*chirc,* Childen *chirc,* Wode*kyrc, Kirche*tun; *Hame,* a dwelling; *Tun,* a dwelling; *Muth,* the influx of a river, as Ay*muth,* Brocs*muth, Farn,* the fearn; *Mere,* a lake; *Hleau, Law,* a hill; *Stream,* a river or flood; *Scip,* or *Scyp,* a ship; *Ric,* a kingdom; *Reven,* the raven; *White, Middel; Cleric,* a clerk or clergyman; *Dal,* a valley; *Fisc,* fish; *Brade,* broad, as *Brade*-meadow; *Cliv, Clif,* a steep rock, as Lillies*clif,* Ake*cliff; Elm,* in *Elm*dene; *Feld,* a field; *Rig,* a ridge; *Grene,* green; *Lang,* long; *Cran,* a crane; *We, Wa,* woe, as in *W*edale; *Blac,* black; *More,* a moor; *Merse,* a marsh; *Ley, Lea,* as in Weder*leye; Muss,* a moss; *Gate,* the road, and so applied to the streets of towns in that age, as in Waldef*gate* in Berwick, Castle*gate* in Jedburgh, the Canon*gate* and Cow*gate* in Edinburgh. It is important to remark that there are in none of the charters of the twelfth century such Saxon words on the north of the Friths; and this fact evinces what the truth undoubtedly was, that the common language of the country was then the *Gaelic,* and not the Scoto-Saxon, as indeed the maps of those districts also attest.

(*z*) The English language was in a state of gradual improvement throughout the reigns of Henry III. and Edward I., though it still retained much of its Saxon form at the beginning of the fourteenth century. Take a short specimen from the great charter of Edward I. in the plain English of that age, which may be incidentally compared with that of Henry III.: "Edward bi þe grace of God kyng "of Yngelond loverd of Irlonde Duck of Aquitaine to alle his treuve to ʒwche þos presente lettres "comez to gretwell. We habbeth iloked þe grete chartre of sire Henri kyng þat was of Yngelonde "houre fader of þe franchises of Yyngelonde in þos wordes:—Furst we graunten to God and bi þis "presente chart. confermen for hus ant for hure heires evere more, &c." This specimen of the English language, as it was written towards the conclusion of the reign of Edward I., resembles very much the contemporary language of Thomas of Erceldoune, though the English scribe seems to have been much fonder of aspirates—

"When the alde is gan ant the newe is come that don nocht
"When Bambourne ys donged with dede men
"When men ledes men in ropes to buyen ant to sellen."

more that the introduction of surnames was owing to his policy. Much innovation has been attributed to that prince by those who did not know that his people and his government were Celtic, and did not advert that neither admitted of considerable change among Gaelic inhabitants. At the end of the tenth century surnames began to be used in France, and in England at the epoch of the Conquest (*a*). The witnesses to the charters of the Scottish Edgar had not any surnames, as indeed Camden remarked (*b*). Neither do any surnames appear in the charters of Alexander I. (*c*). Such names began to exist during the age of David I. (*d*). Among the surnames in Domesday-book appear Brus and Baliol. In England, surnames are said not to have been assumed by the common people till the recent period of Edward II. In North-Britain, surnames began to be used at the commencement of the twelfth century, and became general before the conclusion of the thirteenth (*e*). Even the Gaelic people of those times had their surnames which were either patronymic, as Mac-Donal, Mac-Dougal, Macpherson, or descriptive, as Gow, Duff, Roy, Bui, Bane; *Gow* is indeed a professional name, as the *Smith* was the chief artizan among the Celts. None of the Gaelic people, except those who mixed with the English settlers in the *lowlands*, assumed local surnames. On the other hand the Saxon, Norman, and Flemish people, who settled in Scotland during the Scoto-Saxon period assumed their surnames from their possessions, though a few are descriptive and some are patronymic. It was the universal practice during that period for the married women to preserve their maiden names during their marriage and even during their widowhood, as we learn from the Chartularies (*f*).

(*a*) Camden's Remains, 1605, p. 92; and that learned man says that neither he nor others who had searched many a record to satisfy themselves upon this point, had ever found any hereditary surname before the conquest. Ib., 93. The Abbé Bevy remarks that it was in A.D. 987, several lords, who were neither dukes nor counts, began to assume surnames from their lands or castles; but that the peasants, as late as 1339, had only prenames, though from this epoch they began to take surnames. Histoire de la Noblesse, p. 384.

(*b*) Anderson's Independence, App. iv.; Camden's Remains, 92.

(*c*) Dalrymple's Col., App. ii.

(*d*) Dal. Col. Pref., lxi. In the *Inquisitio Davidis,* A.D. 1116, Gervase Riddel and Robert Corbet were witnesses. Ib., App. No. 1. Riddel and Corbet are the two oldest surnames which can be traced in the chartularies of Scotland. Local names which were connected with lands are the most honourable. See Verstegan's Antiquities, ch. 9.

(*e*) See the Chartularies, Rymer's Fœdera, and Ragman's Roll, in Prynne.

(*f*) Beatrice de Bello-Campo, the wife of Hugh Moreville, the Constable, was called by her maiden name during her marriage and during her widowhood. Chart. Dryburgh, 8-9-108-64. Avicia de Lancaster, the wife of Richard Moreville, also retained her maiden name. Diplom.

But the sort of manners which were at once the most remarkable and attended with the most lasting effects was the religious zeal that prevaded all ranks of men from the highest to the lowest orders. They were all active, some to endow and some to enrich a monastery, according to their circumstances, as we have seen (*g*). Many persons of rank, both male and female, were studious to be received into the fraternity of some ecclesiastical community (*h*). It was deemed an object of great consequence to be buried in the consecrated ground of the religious houses, and to obtain this end many lands and other property were conferred on the monks, as we know from the chartularies (*i*). Every monastery had its roll of benefactors and its martyrology, and many a heart beat with desire to be placed on the sacred list (*k*). Feasts were made and masses were said for those happy persons who had made the largest donations to the favourite monks (*l*). Particular monks were maintained by special donation, to pray for the soul of the giver (*m*). Christian, the sister of Robert Bruce, the widow of Sir Christopher Seaton, founded a chapel on the spot, near Dumfries, where her husband had been put to death by Edward I. (*n*). The same energetic principle which induced the people of that religious age to build chapels and to erect churches prompted them to

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Scotiæ, pl. lxxv. Eschina de Lundoniis, the widow of Walter the first Stewart, called herself in her charters by her maiden name. Chart. Kelso, 145-6. The same practice continued among the women of rank in England during the same age. Alice de Romelie, the widow of William, the son of Duncan, the Scottish king, called herself in her charters by her maiden name. Dug. Monast., v. 278. Johanna de Moreville, the daughter of Hugh, the Constable, and the wife and widow of Richard de Germin, called herself by her maiden name in her charters. Ib., 275. The lower orders of women in Scotland followed that ancient and universal practice even down to the present times.

(*g*) In Book iv., ch. iii., of the Ecclesiastical History. David Oliford gave land and a pasturage to the monks of Dryburgh for the salvation of his own soul and the salvation of the souls of those who had given him those lands. Chart. Dryburgh, 117. David de Lumisden, about the year 1235, gave lands to the monks of Coldingham for the redemption of his grandfather, *who had been condemned to death.* Chart. Coldingham, 49.

(*h*) Walter the first Stewart, who died in 1177, and Richard Moreville, the Constable, who died in 1189, were of the fraternity of the monks of Melrose, whose Chronicle records them as "familiaris noster." Margaret, the natural daughter of William the Lion, who married Eustace de Vescy, gave lands to the monks of Kelso to be received with her husband and their heirs into the fraternity of those monks. Chart. Kelso, 209.

(*i*) Chart. Kelso, 145; ib., 142; Chart. Paisley, 83.

(*k*) Chart. Arbroath, 166; Chart. Balmer., 19.

(*l*) Chart. Newbotle, 195.

(*m*) Chart. Paisley, 182.

(*n*) Sir L. Stewart's Col., 31.

found magnificent cathedrals, and to delight in splendid worship (*o*). The same religious zeal concurring with the romantic bravery of the men, prompted the warlike passion for rescuing the Holy Land by *crusades*, one of the most singular delusions which is recorded in history. Connected with this principle was the practice of displaying to the eyes of warriors consecrated banners, which were carried by monks, and greatly influenced the spirit of soldiers. When we perceive so wise and warlike a prince as Edward I., making use of this artifice, we may easily suppose what must have been its influence. But from that religious zeal concurring with universal ignorance, arose a thousand superstitious practices, which long deluded a confiding people.

The age was warlike as well as religious. The dignified clergy did not disdain to put on their cuirasses with their cassocks. The bishops and abbots, as well as the barons, had their *armigers* and their *scutifers*, whom they rewarded with lands (*p*). The Bishop of St. Andrew's sent out an army, as we have seen, to support the execution of law, under so just a prince as David I. The bishops and abbots, from their extensive estates and ample revenues, were enabled to equip for the field large bodies of armed followers. William Cumyn, the Chancellor of David I., engaged in a sort of civil war for the bishopric of Durham. The Bishop of Durham was one of the leaders of the English army at the battle of Falkirk. Wishart, the Bishop of Glasgow, with his followers, joined Wallace when he raised the hallowed standard of national independence. The same prelate defended the castle of Cupar with the most skilful resolution; yet, was he taken in armour. Lamberton, the Bishop of St. Andrew's, acted a similar part on the same gory stage, whereon the freedom of the nation was fought for. The Bishop of St. Andrews, with the Abbot of Scone, were also taken in armour, during that hostile struggle; and those three dignitaries were conveyed to Nottingham in their warlike attire (*q*). When the English, during a subsequent season invaded Fife, William Sinclair, the Bishop of Dunkeld, rallied the fugitive Scots and repulsed the invading foe (*r*).

But what were the arms with which those deeds were performed? Even down to our own times, the Gaelic people retained the weapons of their gallant

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(*o*) See the Chartularies, wherein are many grants of wax-lights. Penalties and forfeitures were applied to the building of cathedrals. See Chartularies of Moray, of St. Andrews, of Balmerino. Devotees also made many donations to the honour of Saints. Chart. Kelso, 203.

(*p*) Chart. Moray, 129, 144; Chart. Aberdeen, 407; Chart. Newbotle, 5-307; Chart. Cambusken., 111.

(*q*) Mat. Westminster, 455.

(*r*) Fordun, lib. xii., ch. 25; Barbour, 341-5.

ancestors. At the battle of the Standard in 1138, the Scottish infantry were without *armour.* Their only defence was a target of leather. Their chief arms of offence were a spear of enormous length, and swords of unskilful workmanship. Their men at arms were accoutred, like the same class of soldiers in England; as they were chiefly the descendants of Englishmen.

There were other manners in those times of a softer sort. When William the Lion heard of the captivity of the gallant Richard, he sent him two thousand marks for his redemption (*s*). William exercised other liberalities. The bishops of Salisbury and Rochester, thinking it necessary to retire into Scotland, from an interdict which then afflicted England, took up their residence, the one at Kelso, the other at Roxburgh; where they lived at their own expenses. The Scottish king, as a mark of his regard, sent them eighty chalders of wheat, eighty of oats, and sixty-six of malt (*t*). In 1275, Alexander III. requested of Edward I. livery of the lands, which had descended to Elizabeth, the Countess of Buchan, one of the coheirs of Roger de Quinci, though she could not go to the King in person; she being great with child (*u*). William, the Abbot of Balmerino, gave to William Welyeuith the lease of a tenement in Dundee, for the yearly payment of eleven shillings, good and lawful sterlings, with a condition, that the grantor should find the abbot and his successors, and confreres, sufficient lodging in the same tenement as often as they should come to Dundee (*x*). This sordid practice prevailed so much and so long, that the Scottish parliament endeavoured in after times to enforce the use of inns. The manners of the twelfth and thirteenth centuries, were a singular tissue of rudeness and civility, of chivalry and of savageness. But, of manners, the variety in every age is endless. Many a stroke of Manners have been intimated in the foregoing chapters. Other representations of manners will be found in the subsequent chapter, which may perhaps be regarded as more instructive and agreeable.

(*s*) Chron. Melrose, 179.

(*t*) Chron. Melrose, 183; Fordun. Meal is given as charity, by handfuls, in Scotland even to this day.

(*u*) Dug. Bar., i., 685, from the Clause Rolls of the 3rd Edw. I.

(*x*) Chart. Balmer., 55. This sort of tenure was not unusual either in Scotland or in England, the overlord stipulating for lodging on certain occasions.

CHAP. VI.

Of the Commerce, Shipping, Coin, Agriculture, during this Period.

THE historian who attempts to write of Commerce, and of the topics which are connected with it, before trade existed sets sail on a hopeless adventure. Our commercial chronologists pretend that the Scots had a fishery at home, and a traffic with the Dutch as early as A.D. 836 (*a*). But the religious prejudices of the Gaelic people led them to consider fishery as unlawful, because they deemed fish to be unhallowed food. Neither could the Dutch traffic for fish before that nation had been formed into a society. At the commencement of the Scoto-Saxon period the inhabitants of North-Britain can scarcely be ranked on the respectable list of traders when commerce was not very profitable and profit did not yet lead to honours.

The principal seats of trade were the towns in every country and in every age. Celtic Scotland had not towns any more than Celtic Ireland, where both fortifications and cities were the peculiar objects of the people's hatred. When castles and monasteries began to be built in North-Britain at the commencement of the Scoto-Saxon period, villages arose under their walls; and when the Flemings colonized the shores of Scotland, fishery began to be an object of traffic and the means of settling hamlets. It is to those obscure originals and to this recent existence that we must refer the commencement of the villages, the towns, and the traffic of North-Britain (*b*). The towns in

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(*a*) Ander. Chron. Deduct. of Com., i. 41. The late commercial annalist adopts this notion. Neither of these writers seems to have adverted that fishery was deemed sinful by the Gaelic people.

(*b*) The following arrangement of the *Royal Boroughs* of Scotland may be made under the several reigns of the kings, as those communities successively appear in charters. Under Alexander I.: Edinburgh, Berwick, Roxburgh, Stirling, Inverkeithing, Perth, Aberdeen, the three last of which obtained their respective charters from William the Lion. Under David I.: Jedburgh, Haddington, Linlithgow, Renfrew, St. Andrews, Dunfermline, Crail, Elgin, Forres, Inverness; Rutherglen and Inverness had their first existing charters from William. Under

Scotland, if we except those of Lothian, owe their foundation as villages around some religious establishment perhaps, and their names to the Celtic people. They are indebted for their rise from villages to towns to the English, Anglo-Normans, and Flemings, who settled in them during the twelfth century; and though the names of the towns be Celtic, the names of their streets and lanes are Anglo-Saxon like those of Northumberland where the settlers were the same (*c*).

The Scottish kings of this period changed their habitations so often, in order to consume the provisions which their numerous manors produced, that it is not easy to assign them a metropolis. The usual place of the residence of Edgar cannot be fixed from a reference to any document. Alexander I., probably, resided chiefly at Scone, if we may judge from the several grants to the monastery which dignified that ancient site of the *fatal stone.* The education and the affections of David I. induced him to cling to the southern borders, "which boast of Tweed's fair flood." He resided commonly at Roxburgh, and died, after a long sojourn, at Carlisle. Malcolm IV. deemed Scone, as it had become the fixed place of the coronation of the Scottish kings,

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William, who granted many charters to boroughs: Dumfries, Lanark, Glasgow, Irvine, Ayr, Forfar, Dundee, Aberbrothock, Munross, Inverury, Kintore, Banff, Cullen, Nairn. Under Alexander II.: Annan, Dumbarton, Dingwall, Rosemarkie. Under Alexander III.: Kinghorn, Peebles, Selkirk. Under Robert I.: Kirkcaldy, Queensferry, Lochmaben. Under David II.: Cupar, Inverbervie, Dunbar, Brechin, Lauder, Wigton. Under Robert III.: North Berwick, Rothesay. Under James II.: Kirkcudbright. Under James III.: Kirkwall. Under James V.: Pittenweem, Burntisland, Dysart. Under James VI.: Anstruther Easter, Anstruther Wester, Culross, Wick, Sanquhar, Stranraer. Under Charles I.: Dornoch, Inverary, New Galloway, Newburgh. Under Charles II.: Tain, Cromarty, Kilrenny. William III.: Campbeltown. Such is the chronological series of the royal boroughs. Some of them may have existed as villages before they were erected into corporate towns. Selkirk, Peebles, Glasgow, Aberbrothock, Brechin, Burntisland, Newburgh, Pittenweem, and Whithorn, were ecclesiastical boroughs; the first to the Abbot of Kelso, Peebles and Glasgow to the Bishop of Glasgow, St. Andrews to the Bishop, Aberbrothock to the Abbot, Brechin to the Bishop, Burntisland to the Abbot of Dunfermline, Newburgh to the Abbot of Lindores, Pittenweem to the monastery of May, and Whithorn to the Prior of Candida Casa. Some of those towns were boroughs of barons before they were boroughs of the kings: Renfrew was indeed granted by David I. to Walter, the son of Alan. Lochmaben also passed to Robert Bruce by the grant of David I. Dunbar was early a town of the Earls of Dunbar. Lauder was early the town of the Morvilles. North Berwick was erected into a port, and conveyed by Robert II. to the Earl of Douglas. To that potent family Kirkcudbright also belonged as a borough of regality. Wick was the town of the Earl of Caithness. Inverary and Campbeltown were the property of the Earls of Argyle.

(*c*) See the Chartularies for those names. The most common term for the streets was the Saxon *gaet,* which assumed the form of *gate* in the Scottish and old English.

to be the metropolis of his kingdom (*d*). Conviction has obliged the historians of Edinburgh, Maitland and Arnot, to avow its recent commencement as the metropolitan seat. It was the settlement of the Court of Session there by James V. which first conferred the undisputed honours of the capital on Edinburgh.

The court of *the four boroughs* appears, however, to have been established early in the Scoto-Saxon period under David I. their founder. The four towns which formed this mercantile establishment, were Berwick, Roxburgh, Edinburgh, and Stirling (*e*). The four boroughs, by their commissioners, used to appear once in every year at Haddington, before the chamberlain in his *ayr*, "to false the domes of boroughs." (*f*) These commissioners seem therefore to have formed, in conjunction with the chamberlain, a court of ultimate appeal from the usual adjudications of all the boroughs. By an easy transition the court of the four boroughs from being *judicial* in its principle became legislative in its practice; and before the commencement of the fifteenth century delegates from all the boroughs met in the convention of the four boroughs, "to treat and determine upon all things concerning the common weal "of all the king's boroughs." (*g*) The appointment of such internal towns as Roxburgh, Lanark, and Linlithgow, and even as Edinburgh, in the formation of such a court evinces that foreign trade had little efficacy during those times in such a commercial establishment.

It is curious meanwhile to observe that Scone was not only the metropolis of North-Britain, but was also one of the earliest places of foreign com-

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(*d*) Malcolm, in his charter to the monastery of Scone, declared that Scone was "*Principalis sedes* "*regni nostri*," the *principal seat of his kingdom*. Chart. Scone, 16.

(*e*) There is an act of Parliament which was passed under David II. in 1367, *De quatuor Burgis*. MSS. Paper Office. It enacts that as long as Berwick and Roxburgh, which were two of the boroughs that, *ex antiquo*, ought to hold the chamberlain court, shall be detained by *their adversaries of England*, Lanark and Linlithgow shall be received in their place. Skene places this statute in 1348. Auld Laws, 139. Berwick, we thus see, was one of the four boroughs, *ex antiquo*. But Berwick does not appear till the reign of Alexander I.; and this intimation attests that the court of the four boroughs cannot be older than the reign of the Scottish Justinian, David I.

(*f*) The Auld Laws, 140. The *falsing of dooms* has long been discontinued. When the object after the union was to encourage the trade of Scotland, commissioners were appointed, in 1711, to execute the ancient office of *high chamberlain*, which was said to be then vacant, and to be in the crown. Books of the Board of Trade, Bund., M. 110. The *leges burgorum*, as we have seen, owe their origin to David I.

(*g*) Auld Laws, 140.

merce (*h*). Perth had also a foreign traffic in those early times (*i*). St. Andrews likewise partook during that age of the riches which flow from distant trade (*k*); and Stirling followed next to those in the enjoyment of the advantages resulting from a commercial intercourse with foreign traders by means of shipping (*l*). To Dunfermline, David I. also granted the customary dues on all ships coming to the Port of Inveresk (*m*). This munificent prince gave to the Bishop of Aberdeen the tenth of the *can* of ships which should come to Aberdeen, and this grant was confirmed by Malcolm IV. (*n*). David I. also conveyed to the monks of St. Cuthbert the *wreck of ships* (*o*). It is apparent then from the information of the chartularies, that North-Britain enjoyed some of the benefits of foreign traffic during the early reigns of David I., and even of Alexander I.

In the meantime, the towns which thus enjoyed the semblance of trade in those early ages were either the property of the king in demesne, or were his tenants in *fee ferm.* Whatever may be said by theorists of the dignity of cities before cities existed, the towns of Scotland throughout the Scoto-Saxon period appear under the same form and policy as the boroughs of England during the same period, which were either held in demense by the king, or let to ferm as the royal property (*p*). The chartularies are crowded with the grants of the successive kings of Scotland to the Bishops and Abbots, to the Barons and courtiers of tofts in their towns, of annuities from the ferms of their boroughs, and pensions from the *census* of their burgesses (*q*). The

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(*h*) Alexander I., having granted to the monastery the custom of ships coming to Scone, addressed a writ to the merchants of England, inviting them to trade at Scone, and promising them protection on paying customs to the monks. Chart. Scone, 3.

(*i*) Customs on ships coming to Perth were granted to the religious houses by David I. Chart. Scone, 1, 14, 16; Mait. Edinb., 145; Chart. Cambuskenneth, 199.

(*k*) Reliq. Divi Andreæ, 165.

(*l*) MS. Monast. Scotiæ, 105; Dal. Col., 386. David I. granted to the monastery of Cambuskenneth the land which lay between the Forth and the way that went down from Stirling, "*ad naves.*" Chart. Cambuskenneth, 105. He also granted to the same monastery the *can* or custom of one ship at Stirling. Ib., 28, 55.

(*m*) MS. Monast. Scotiæ, 107.

(*n*) Chart. Aberdon., 216, 217.

(*o*) MS. Monast. Scotiæ, 17. In the Chart. of Coldingham, 88, there is a memorial of John Edwalde to inquire at Hull, or elsewhere, about the ship of Arnold Blerk. . . . In the same chartulary, 22, there is "Magna Placita in Curia de Ayton, pro duodecim denariis male receptis per "J. Kinkborn nomine sedis unius navis apud Eymouth."

(*p*) See Brady's Treatise on Boroughs, everywhere; and Madox's Firma Burgi.

(*q*) Alexander I. granted to the monastery of Scone *can* "unius *navis* sue propria *navis* fratrum "sive illius quem proloquentur." Chart. Scone, 1. This grant was confirmed by Malcolm towns were in those times very inconsiderable, in populousness, in opulence, and in power, notwithstanding the encouragement which the kings had given to foreign settlers (*r*). Before the year 1174, as we have seen, in William of Newbrig, the towns of Scotland were inhabited by Englishmen and other foreigners (*s*). Scone, the chief city of North-Britain, was still dependent, and petty (*t*). The Bishops and Abbots had their *villages*, which were not more populous, opulent, nor powerful (*u*). The Barons had their hamlets; but we see nothing in the chartularies of baronial boroughs, much less of commercial towns, till more modern times. Renfrew, indeed, was the town

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IV. and Robert I. Chart. Scone, 16. David I. granted to the monastery of Dunfermline every year for clothing the monks, one mark of silver from the first ships which should come to Stirling or to Perth. MS. Monast. Scotiæ, 105; Dal. Col., 386. He extended this grant to the port of Inveresk. MS. Monast. Scotiæ, 107; and he exempted the *ships* of *the abbot* from all customs. Id. David I. granted to the monastery of Kelso one toft and *one ship* in Renfrew. Chart Kelso, 1. This grant was confirmed by Malcolm IV. Diplom. Scotiæ, 24. David I. granted to the monastery of Holyrood every year for clothing the monks a hundred shillings, from the *can* of the first ships coming to Perth for traffic. Maitl. Edin., 145. David I. granted the tenth of the *can* of ships coming to Aberdeen to the Bishop. Chart. Aberdeen, 216. This grant was confirmed by Malcolm IV. and William. Id., 213-17. David I. made similar grants to the monks of Cambuskenneth, which were confirmed and enlarged by Malcolm IV. Chart. Cambus., 27, 29, 54, 55, 199. David I., in his grant to the monks of Holyrood, calls Edinburgh *his burgh*. Mait. Edin., 145.

(*r*) William the Lion granted to Pagan, the goldsmith, a land in Edinburgh on the south side of St. Giles's church, where he settled. Chart. Inchcolm, 19. William granted also to Henry Bald, a goldsmith, some land in Perth, which his *præpositi* had measured off for him under his precept. King William granted a toft in Perth to William the helmet-maker, as measured by his sheriff, for which the helmet-maker was to render yearly "duos capellos ferri." Chart. Scone, 41.

(*s*) William of Newbrig is confirmed by the chartularies. It is remarkable that the burgesses and the common people of the towns who appear in the charters of the twelfth century are distinguished by English or Flemish names, while the inhabitants of the country who appear in charters are distinguished by Gaelic names. See also Prynne's Col., iii., throughout.

(*t*) In the Chart. of Scone, No. 8, there is a grant of Malcolm IV., allowing the monks to have in Scone one smith, one tanner, and one shoemaker.

(*u*) Till the reign of William the Lion, the villagers of Glasgow were the *mere men* of the Bishop. In the chartulary of Glasgow, fol. 45, there is a charter "Quod *homines, nativi,* et *Servi* Episcopi "Glasguen. quiete et libere sint a solutione tholonei." Between 1175 and 1180, William granted to Jocelyn, the Bishop, "that he should have a *burgh* at Glasgow, with a market on Thursdays." Chart. Glas., 23. It was not till the year 1242, that the burgesses and *men* of the Bishop were enabled to trade in Lennox, Argyle, and Scotland, as freely as the burgesses of Dunbarton. Ib., 167. According to the *constitutio nova,* no one could have a malt-kill without the burgh of Glasgow, except those who had the right of Pit and Gallows; and even he who enjoyed this right was allowed only one malt-kill: no one without the burgh could make any cloth, either dyed or shorn. See also the chartularies of Kelso and Aberdeen.

of David I., and was conveyed by that liberal prince, and confirmed by Malcolm IV. to Walter, the son of Alan (*u*). Yet, are there no charters to any boroughs remaining of any earlier king, than those of William, who began his reign in 1165; and from those intimations, it is apparent, that the towns and boroughs, with their ports and their privileges, could only derive their commencement from the king's charter (*x*). The boroughs were first called to Parliament by Robert Bruce; and, during the two subsequent centuries, the towns acquired a greater extent of population, owing to the progress of settlement, and obtained wealth from the enterprize of industry and extension of traffic, though the advance of both may have been slow.

The very principle upon which the *burghs* were formed, was exclusion and monopoly. Each community tried to obtain a district, within which it might alone carry on its traffic, by excluding other towns. The burghers of Dunbarton tried to exclude the men of Glasgow from trading in Dunbartonshire, till Alexander III. interposed. The burghers of Cupar endeavoured to prevent the citizens of St. Andrews, which is one of the most ancient communities, from buying and selling within their district, till the Parliament decided against their pretensions, in favour of the claims of St. Andrews (*y*). Perth and Dundee have equally disputed about their privileges in trade, and priority to

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(*u*) Chart. Ant. Bibl. Harl.; Stuart's Gen. Hist. of the Stewarts, p. 5.

(*x*) Before the accession of William, eighteen of the royal boroughs were the mere towns in demesne of the king. The charters of William, not to speak of the grants of subsequent monarchs, demonstrate that there could not be any burgh or port or privileged place without a charter from the king. The great officers of State appear from the chartularies to have obtained from the kings tofts in the different burghs, on which they built houses for their occasional residence. Malcolm IV., when he confirmed to the first Stewart all former grants, conferred on him in each of the king's burghs throughout his land, a toft with twenty acres of ground whereon he might make his residence. Harl. Chart. Antiqua. The constable also had a toft in each of the king's burghs. Roger de Quinci granted to the monks of Scone the land in Perth, with the *stone*-house which belonged to the *constable* of Scotland, and with it the garden without the walls. Chart. Scone, 57; and see on this subject Robert Bruce's grant to Gilbert de Hay, in 1314. Diplom. Scotiæ, 45. To the various monasteries which were settled during the twelfth century, the several kings granted tofts in their towns for the purpose of building houses, into which they introduced artizans, who practised the useful arts, as we learn from the chartularies: we thus perceive how much the monks contributed to the inhabiting of towns, and to the increase of traffic.

(*y*) After a long litigation, the controversy between St. Andrews and Cupar was adjudged by the Parliament at Perth, in 1369, in favour of the Bishop and his citizens, against the men of Cupar calling themselves *fratre gilde*. MSS. Paper Office. From this decision the citizens of St. Andrews had a right to buy and sell, within Cupar, wool, skins, and hydes, and other articles of traffic.

precedence (*z*). The boroughs of Aberdeen and Inverness had their exclusive districts from the several charters of William the Lion, who gave, however, a participation, in their privileges, to all his burgesses in Moray (*a*). The burgesses of Irvine and Ayr had also a controversy with regard to their exclusive traffic, which was settled by the verdict of a jury, under Robert II. (*b*). From that contracted policy, it came early to be settled as the law of Scotland, "that all merchandis, and boroughs, enjoy their own liberties, and privileges; "and that persons, dwelling without boroughs, shall not use any merchandize, "nor sell any *stapil guidis;* that none but *merchant guild* shall buy, or sell, "within the liberties of the boroughs (*c*)." It thus appears that competition was completely excluded from the ancient policy of North-Britain, by the exclusive privileges, which were early adopted, and long continued as the established principle of commercial regulation (*d*).

It is equally apparent, that the persons who were employed during those times in carrying on the domestic trade of North-Britain, were the king's burgesses, residing in particular districts. As those *guild brethren* were without commercial capital, they could not carry on an extensive traffic. The English merchants, as the nearest, were invited by Alexander I., as we have seen, to engage in the foreign trade of his narrow realm. But the Flemings were, in

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(*z*) Cant's Hist. of Perth, App. No. 2. Perth was declared by the Lords of Council and Session to be the oldest borough. William the Lion, the restorer of Perth, granted it many exclusive privileges. Id. It is said, without authority, to have been *the first royal burgh* of the kingdom. Ib., 24. This contest long continued, for "on the 20th December, 1567, the Lord Regent raid to the parliament hous and ves much troubled to compose these two turbulent tounes of Perth and Dundie." Birrel's Diary, 13.

(*a*) See the charters in Wight on Elections, App. No. 2; and the Chart. of Aberdeen and Moray. In those charters there seem to be some peculiarities: (1.) All the king's burgesses on the north of the Cairn O'mount, and in Moray, were entitled to the privileges of Aberdeen; (2.) The exclusive right of trade extended over the whole sheriffdom of Aberdeen; (3.) The king's burgesses in Moray were equally entitled to the peculiar privileges of Inverness, which extended over the whole shire.

(*b*) The "Carta de controversia de burgensis de Aire et de Irwyne," was published by Hay in his *vindication of Elizabeth More,* p. 92. By this charter it appears that the town of Irvine had an exclusive right to traffic within the baronies of Cunningham and Largs.

(*c*) MS. Rollment of Courts; Skene's Borough Laws throughout. Stat. Wm., ch. 35-6-7; Lord Kames's Stat. Law, p. 30; and the *constitutio nova* of Glasgow.

(*d*) During the reign of James I. of Scotland, the royal boroughs were accounted the sixth part of the realm. During the age of Charles II., it became a question whether the other boroughs were not entitled to equal privileges with the boroughs royal; this question was referred from the Court of Session to the Parliament. Sir George Mackenzie's Pleading, 143. The privilege of foreign trade was communicated to the boroughs of regality and barony, upon condition of their relieving the royal boroughs of a proportion of the public taxes. Stat. 1693, ch. 30.

those ages, the great traders of the European world. They sent, as we have seen, colonies into Wales and Cumberland (*e*): and as early as the reigns of David I. and Malcolm IV., there were Flemings settled at St. Andrews, and in several other towns along the eastern coast of Scotland *(f)*. Towards the conclusion of the Scoto-Saxon period, the Flemings had placed a commercial factory at Berwick-on-Tweed (*g*). Before the demise of Alexander III., a trade had been opened with Gascony for the importation of wine and corn (*h*).

In the infancy of manufacture and commerce, the great defect is the want of capital. It is this deficiency which enables the rich and industrious nations, and individuals, to take the management and profit of traffic. It was this principle which induced the religious houses to act as traders, when the merchants of Scotland were without the means of carrying on commerce, and when paper credit was unhappily unknown (*i*). We may learn from the chartularies, that the monks were the earliest *guild brethren*, and had exclusive privileges of trade, and of fishery, when boroughs had scarcely an existence (*k*). We have seen how early the monastery of Scone engaged in traffic. The abbot and convent had a ship, which Alexander II. was studious to protect (*l*). The

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(*e*) Ander. Chron. Com., i. 73-7-118-123.

(*f*) Reliquiæ Divi Andreæ, 167; and see the chartularies of Moray, Aberdeen, Scone, St. Andrews, and Inchcolm.

(*g*) Lord Hailes's An., i. 236. In a commercial treaty with the court of Flanders during the year 1297, Edward I. stipulated that the Flemings should have free and secure trade in Scotland. Rymer's Fœd., i. 740.

(*h*) John Masun, a merchant of Gascony, supplied Alexander III. with wine and corn to a large amount; a balance of £2197 8s. remained due by the king to the merchant; being unable to pay his creditor, Alexander assigned to him the customs of Berwick: yet, as the debt still remained due at the demise of Alexander, and the *executors* of the *king's testament* had delayed to pay it, Masun applied to Edward I., as superior Lord of Scotland, who summoned John Baliol to answer the complaint, in 1293. Rym. Fœd., i. 605. In that transaction, authenticated as it is by the record, we see a striking picture of Scotland in that age: we may in it perceive that the debt for wine and corn was large, and that the customs of Berwick were small.

(*i*) Even at a much later period money was very rare, and the means of acquiring it very difficult. Sir John Forrester acquired from Henry, Earl of Orkney, an annuity of twelve merks out of his lands and coal-works of Dysart, until he was repaid thirty nobles which he had lent to the Earl in his great necessity, whereupon he got a charter in December, 1407. Dougl. Peer., 371.

(*k*) See the charters of Alexander I., and David I., and Malcolm IV., to Scone, Dunfermline, May, &c. We may see in Madox's Formulare, 291-2, that Henry I. granted to the Abbeys of Battel and Westminster certain privileges in trade.

(*l*) The king addressed a precept to his subjects in Moray and in Caithness, requiring them to protect and succour the ship and men of the abbot and convent of Scone, if they should come on their unknown coasts. Chart. Scone, 57. The Bishop of Durham had also *his* ship during the reign of Richard I. Madox's Excheq., i. 714.

other monasteries had also their ships. The monks of the Isle of May in the entrance of the Forth, had also their ships, which were specially exempted from can, toll, and custom, by a charter of David I. From the same authority they had the right of fishery around their own shores; and they acquired from successive kings so many commercial privileges as to convert them into a trading much more than a religious community (*m*). The other monastic houses partook abundantly in the profit which the Scottish kings derived from the royal fishes (*n*). Both the sea and the river fishings were certainly objects of importance during the early period of the twelfth century. Whether the sea fish were exported in those times, may admit of some doubt; but there cannot be a doubt, as we learn from the chartularies, whether the sea fish, both fresh and salted, were consumed in the domestic economy of a religious age (*o*). The fishings in many rivers and lakes of Scotland, were in those times prosecuted with great skill and diligence. The right of fishery, like other privileges emanating from lands, belonged to the king. The proprietors

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(*m*) The chartulary of May was happily preserved in the curious library of the late Mr. T. Astle of Battersea-rise, who, with his usual zeal for promoting historical knowledge, allowed me the use of it; from that record it appears that David I. gave them not only the right of fishery but the privilege for them and their *men* to sell their fish "*in portu suo sicut in burgo.*" From him they had an acquittance for all *can*, toll, and customs on their ships, within his realm. From Malcolm IV. they had a grant of an exclusive fishery around their own island; by another grant from the same king they were empowered to demand tithes of all persons fishing round the isle of May; this right of tithes was confirmed by William the Lion. From this king they had a grant of customs on ships coming to Perth. From him also they had the gift of the freight of one ship, for carrying necessaries to the monastery from Dunbar. From him they had, moreover, a right, freely to buy and sell their proper goods throughout the king's lands. William also prohibited all persons from building or digging in the Isle of May: and from David I. they had the right of commonage within the parishes of Kelly and Crail, and indeed within his whole kingdom.

(*n*) In 1128 David I. conferred on the monks of Holyrood the tithe "de omnibus cetis et "marinis belluis qui mihi eveniunt ab Avon usque ad Colbrandspaith," along the southern shore of the Forth. Maitl. Edinb., 145. David I. granted to the monastery of Dunfermline "de Selchis "qui ad Kingorn capietur postquam decimati fuerint, concedo ut omnes septimos Selchis habeant." MS. Monast. Scotiæ, 105; Dal. Col., 385. In the Chart. of Kelso, 275, there is a precept of Malcolm IV. to his sheriffs and other officers in Lothian and in his whole land, to allow the monks of Kelso the half of the fat of the royal fishes which might come into the Forth on either shore.

(*o*) They were used greatly in those times for the purposes of war in the supply of castles. Among the provisions which were furnished to the several garrisons that Edward I. had in the southern parts of Scotland during the years 1299 and 1300 there were large quantities of herring, though it appears not where they were catched and cured; they were bought by the *last*, consisting of 10,000. The Wardrobe Account of Ed. I., 118-21-143. *Stockfish* were also provided in large quantities, and *Ling* in smaller numbers. Id.

of the soil afterwards acquired this right, when they obtained a grant of the territory from the king; and during the twelfth and thirteenth centuries, when fishings were so much practised, the owners of the land conveyed their right of fishery not only to the monks, who were the most active improvers, but to other persons who derived a benefit from the fish, as we know from the chartularies. The right of fishery was modified according to the several views of the granters, and the divers wishes of the grantees (*p*). During the reign of David I., it became usual to grant exclusively *piscaturas* on particular allotments of the rivers, which were called *Retes*, from their consisting of the space which might be fished by one net and a boat (*q*). During the twelfth and thirteenth centuries, *Yares* were established in the rivers, which, as they were constructed of wood and stones, obstructed and entangled the fish (*r*). Those *Yares* were regulated by the well known statute of Alexander II., which the late Lord Hailes thought it worth his while to free from the interpolation of Skene (*s*). Even the very lakes, however small, were fished with great assiduity, and appropriated with great ardour (*l*). In the progress of refinement,

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(*p*) Alexander I. granted to the monks of Scone the privilege of fishing in the Tay, which was adjacent to Scone, in common with himself. Chart. Scone, 1. Earl David granted to the monks of Selkirk the privilege of fishing in the rivers near Selkirk, in common with himself and his men. Chart. Kelso, 4.

(*q*) The Chartularies are full of such piscatory grants. David I. gave to the monks of Holyrood two *retes* in the Tweed. Malcolm IV. gave to the monks of Scone two *retes* in the Tay and one *rete* in the Forth. To the monks of Kinloss he granted a *rete* in the Earn, [the Findhorn]. He granted to the monks of Melrose one of the two fishings which he had in Berwick stream of the Tweed. K. William granted to the monks of Arbroath a *rete* in the North Esk, and a *rete* in the Tay which was called *the Stocke.* Alan, the son of Walter the Stewart, granted to the monks of Cupar a *rete* in the Clyde near Renfrew. David I. granted to the monks of Holyrood the tenth of the fishings that belonged to St. Cuthbert's church. Malcolm IV. granted to the monks of Rindalgros the tenth of the fishings in the Tay and Earn. Chart. May, 15.

(*r*) See the several chartularies. John de Hay of Ardnachtan granted to the monks of Cupar a *yare* for catching fish in the river Tay. Chart. Cupar, 55. Before the year 1224, Maldowen, the Earl of Levenachs, granted to the monks of Paisley a *yare* in the Leven near Dunbarton. Chart. Paisley, 310. The same Earl gave to Robert de Hertford, Clerk, the half of another *yare* lying higher up the same river. Ib., 309; and Hertford, becoming precentor of Glasgow, granted this half *yare* to the monks of Paisley. Ib., 314. The Earl of Levenachs confirmed this grant, and stipulated that no other yare should be constructed in the same river between that half Yare and Loch Lomond. Ib., 317. In 1273, Malcolm, E. of Levenachs, gave the same monks liberty to take wood from his forests and stone from his grounds for repairing their fishing *yares* in the Leven. Ib., 318. The Stewarts had several *yares* in the cart. Chart. Paisley, 147.

(*s*) Annals, i., 340; the *lex aquarum* is ch. 16, and is recorded in the Berne Collection.

(*l*) The Earl of Levenachs granted the monks of Paisley the right of fishing in his lake of Leven, [Loch Lomond]. Chart. Pais., 316. Alan, the Son of Walter the Stewart, granted the fish became a luxury, or perhaps a necessary of life. When Edward I. invaded Scotland in 1300, he carried with him his nets and his fishers to supply his table (*t*). The proper season for fishing was very early regulated by statute: and we may see Robert Bruce busy in enforcing the *auld statute* (*u*). As early as the twelfth century, there were *stell* fishings along the flat shores of the sea, near the mouths of the rivers, where fish were taken in considerable numbers (*x*). The fish, which were then taken in various ways, were chiefly consumed at home: and we hear of little export for the consumption of distant people (*y*).

The monks, also, were of those times the bankers, who accommodated the rich and relieved the needy. The monks were then so much occupied in commerce and fishery, in manufacture and agriculture, that they were the only corporations who possessed any large portion of ready money. Much of the territories which the monks possessed, were obtained in the mode of modern bankers, by making loans to the luxurious or the needy; and taking lands and tenements in satisfaction (*z*).

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same monks the privilege of fishing in Lochwinnoch, in common with himself and his heirs. Ib., 147; and he gave them leave to make and enjoy the half of a fishing at the outlet of this Loch. Id. Roger de Quinci granted the monks of Dryburgh the fishing in the lake of Merton. Chart. Dryb., 104. The monks of Melrose obtained from Alexander II. the lake of Dunscore with all contained in it. Chart. Mel., 186. Both those lakes have been drained.

(*t*) In the Wardrobe Account of 1300, there is a charge for four nets which were purchased for fishing in the rivers *and lakes of Scotland for the king's use*, and he had with him his own fishers.

(*u*) Rob. I., ch. 2; yet the same king granted to the monks of Cupar a licence to catch salmon during prohibited times, whenever they should think fit, in the Tay, the Ylif, the Ardle, and the North Esk, for their proper use, "et pro *potagio* conventus." Chart. Cupar, 25.

(*x*) There were in those times several *stell*-fishings on the coast of Ayrshire. Chart. Pais., 9; Chart. Melrose, 118. There were a number of *stell*-fishings on the shores of the Solway near the influx of the rivers. Ib., 63; Dug. Monast., v. 286. There were several of such fishings at the mouth of the Tweed. Chart. Kelso and Coldingham; and the influx of the rivers along the east coast of Scotland furnished convenient sites for numerous *stell*-fishings. Chart. St. Andrews; Arbroth; MS. Monast. Scotiæ. *Stell*-fishing probably meant a *stationary* fishing, from the Anglo-Saxon *Steal*, perhaps signifying, as we know from Somner, *locus, statio.*

(*y*) There is a precept in Rym. Fœd., iv., 554, by Henry IV. in August, 1433, for delivering to the Duchess of Clarence, "Cados salmonum salsum," a kit of salted salmon which had been sent her by the queen of Scotland.

(*x*) Simon Pistor resigned to the monastery of Newbotle his land upon the Nesse at Berwick, in consideration of half a mark of money which the Abbot had lent him in his great need. Chart. Newbotle, 207. During the reign of William, the monks of Melrose lent forty marks sterling to Duncan, the Earl of Carrick, during his great necessity, "Scilicet, pro terra mea in libertatem

Such, then, were the persons who chiefly carried on trade in North-Britain, during that period of rudeness and of penury. The catalogue of her exports and imports is very short: she sent out wool, skins, and hides, which were her staple goods; she imported wine, spiceries, and corn, that administered to her luxury and her needs.

The commercial laws of North-Britain consisted of a system of slavish and barren monopoly. Every town had its own district. No one could trade in those times but *guild brethren*, or privileged monks: when foreign vessels arrived, the ship-masters were obliged to carry them into some borough, and to offer the cargo to the appropriate few. When the *stranger merchand* was about to reload, he soon found that he could not buy any wool, hides, nor any other merchandize, within or without a borough, but from a burgess (*a*). Such a system entailed on Scotland, during five centuries, poverty and wretchedness.

We may easily infer from the foregoing intimations, that Scotland did not abound in shipping. The monks possessed, perhaps, *a dozen sloops*. The out isles or Hebrides also possessed, from early times, a number of galleys and barks (*b*). Ages elapsed before the Scottish ports were enlivened and enriched by the frequent appearance of national ships (*c*). The war of the succession

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"ponenda." In consideration whereof he renounced an annual rent of three marks, which he had from them of the lands of Beithoc and Achnefure. Chart. Melrose, 111. Adam Carpenter granted to the Abbot and convent of Paisley his lands of Ald Ingliston, in consideration of a sum of money given him in his great necessity. Chart. Paisley, 49. In 1281, Adam, some time burgess of Glasgow, conveyed his burgage tenement in Fish-street, near the bridge of Clyde, to the Abbot and convent of Paisley, in consideration of a sum of money which was given him in his great necessity. Ib., 255; and see the same chartulary, 238, 247, for similar transactions. In 1268, Robert de Mythyngby sold his tenements in Glasgow to Reginald de Irewyn, archdeacon of Glasgow, for a sum of money paid him in his great necessity. Chart. Glasgow; Gib. Hist., Ap., 303. As early, indeed, as 1269, a canon was made by the Scottish church, "Ne clerici vel monachi se negociis immisceant." Lord Hailes's ed., No. 22; and William the Lion had indeed enacted "that kirkmen live honestlie "of the fruits, rents, and profits of their kirks; and sall nocht be husbandmen, scheipherds, "nor merchants." Stat. Will., ch. 34, in Skene. But such canons and statutes seem not to have been enforced. At the commencement of the sixteenth century, the Abbots of Lindores frequently granted their bonds to traders for money paid on account of the monastery in Flanders and Zealand. Chart. Lindores, 24-5-6.

(*a*) Borough Laws, ch. 18. Almost the whole of the *Burgh Laws* and statutes *of the Guild* consist of local and municipal regulations.

(*b*) The old charters of those islands require, as the service for their tenure, one vessel with twenty oars; upon which account the grantees carried ships, or *lymphads*, which are still carried by the possessors of those countries as feudal arms. Nisbet's Essays on Armories, 9.

(*c*) History has, however, recorded the building of a large vessel at Inverness, in 1249, by the Count de St. Paul. Lord Hailes's An., 302, which quotes M. Paris for the fact.

probably destroyed the shipping which Edward I. tried to embargo in 1294. It was even said within the English House of Commons in 1607, "that the "shipping of Scotland were *ad misericordiam* (*d*)."

Scotland in the meantime enjoyed the benefit of a domestic manufacture from the beginning of the Scoto-Saxon period (*e*). Her people manufactured the wool of their flocks. Their woollen fabrics were regulated by the assize of David I. (*f*). They manufactured their own flax and their own leather. Necessity had early introduced smiths, tanners, and shoemakers, into every village, and dyers and goldsmiths and armourers into every town. In the age of David I., salt-works became objects of great attention, because they furnished a revenue to the kings and nobles, and profit to the monks (*g*).

(*d*) Com. Journ., i. 335.

(*e*) Many of the new settlers in the towns during those times were named from the nature of their trades. William the *smith,* Alan the *tanner,* Ernulf the *dyer,* Arnald the *dyer,* William the *dyer,* who were all burgesses of Perth. Chart. Balmer., 25-7. Mathew the *lorimer,* or saddler, was also a burgess of Perth. Chart. Scone, 82. Adam the *barber* was a burgess of Dundee. Chart. Balmer., 44. Radulph the *merchant,* Roger the *shoemaker,* Robert the *locksmith,* were inhabitants of Dumfries during the reign of William the Lion. Chart. Kelso, 2. William the *dyer* lived in Kelso during the same reign. Ib., 352. Simon the *baker* was a burgess of Berwick. Chart. Newbotle, 207. William the *baker* inhabited Aberdeen. Chart. Aberdeen, 343. Martin the *goldsmith* lived in Aberdeen. Id. *Goldsmiths* appear to have been settled during that age in all the chief towns of Scotland. Chart. Scone, 40-69-70; Chart. Inchcolm, 19; Chart. Newbotle, 209. A much more numerous list of *tradesmen* in those times might be made out from *Ragman's Roll* in Prynne's Col., iii.

(*f*) King William's charter to Inverness speaks of cloth *dyed* and *shorn,* which should not be made without the borough, contrary to the *assize* of David. Wight on Elections, p. 411. The *constitutio nova* of Glasgow also speaks of cloth *dyed* and *shorn.* Much *wool* was, however, exported.

(*g*) David I. granted to the monks of Kelso a saltwork in the Carse, upon the upper shore of the Forth. Chart. Kelso, 1. David I. granted to the monks of Newbotle a saltwork in Blackeland. Chart. Newbotle, 28; and the same liberal sovereign gave the same monks a saltwork at Kalentyr. Ib., 182. Malcolm IV. confirmed this grant, with *easements* in his pastures and waters, and firewood for the saltwork from the forest of Kalentyr. Ib., 183. David I. granted to the monks of Cambuskenneth "unam salinam et totidem terre quod habet una de Salinis meis." Chart. Cambus.; Nimmo's Stirl., App., 1. David I. granted to the monks of Holyrood a saltwork and twenty-six acres of land at Airth. Maitland's Edin., 144. David I. granted to the monks of Jedburgh, what Earl Henry confirmed, a saltwork near Stirling. MS. Monast. Scotiæ, 27; and both those grants were confirmed by Robert I. Ib., 27-29. King William granted to the monks of Aberbrothoc "unam *Salinam* juxta *salinas meas* in Kars apud Strivelyn," with five acres of land and pasture, and other necessary easements. Chart. Aberb. We thus see that the kings in those times derived a profit from their *saltworks,* many of which lay along the carses of Kalentyr and of Stirling, on the Forth; and Alexander II. granted to the monks of Newbotle five marks yearly, "de firma *Salinarum nostrarum* in Karso per manum vicecomitis et ballivorum nostrorum de

In his reign, water-mills were subjected to tithes, and tenants were restricted to grind at particular mills, as we may learn from the chartularies. The Scottish kings had mills at each of their burghs and also on several of their manors, from which they derived a considerable revenue and which furnished a constant source of munificent grants to the religious establishments (*h*). Before the age of Alexander II., who died in 1249, *wind*-mills had been universally introduced into Scotland (*i*). There was a malt-kiln and a brew-house in every village of that country during those times, and even Glasgow was noted in that age for its malt-kilns. These objects were considered as a domestic manufacture arising from husbandry during that age.

But agriculture was the universal object of pursuit from the prince to the peasant. In this view of the subject the kings were, within their own realm, the greatest Barons, who possessed manors in every shire, who manured them under their own thanes or bailiffs, and who lived upon their own produce; they were thus induced frequently to shift their residence in order to consume

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"Strivelin." Chart. Newbotle, 187. The nobles also had their saltworks in those times. Roland of Galloway, the constable, granted to the monks of Kelso a saltwork at Lochkendeloch, on the Solway, with sufficient easements from his woods to sustain the pans. Chart. Kelso, 253. Duncan, the son of Gilbert, Earl of Carrick, granted to the monks of Melrose two saltworks in any competent place within his manor of Turnbery, with eight acres of arable land, pasture, and firewood. Chart. Melrose, 117. Roger de Scalebroc granted to the same monks one saltwork, and one pan, in any convenient place, on his manor of Grenan, with the necessary easements. Ib., 118. Walter, the son of Alan the Stewart, granted to the monks of Paisley all his saltworks in Kalentyr, which had belonged to Herbert the Chancellor. Chart. Paisley, 7. There were various saltworks on the shores of the Solway, in Galloway, and in Dumfriesshire. There were saltworks on the coast of Cunningham, from which the town of Saltcoats derived its name. There were also saltworks on the coast of Buchan, in Aberdeenshire, and on the shores of the Moray Frith. Chart. Moray. It appears from the chartularies that the saltworks, by the payment of *can*, were considerable objects of revenue to the king.

(*h*) Earl David, in his foundation charter of Selkirk, granted to the monks the seventh part of his mill at Berwick. Chart. Kelso, 4. After he became king he gave to the monastery of Kelso 20 chalders, "inter farinam et frumentum," yearly from his mills of Roxburgh, and 12 chalders of malt yearly from his mill of Edenham. Ib., 1. David conferred on the monastery of Holyrood one of his mills of Dene, and the tenth of the mills of Liberton, and of Dene, and of the new mill of Edwinsburgh, and of Craigenmarf. Maitland's Edin., 145. The same king granted to the monastery of Scone ten shillings from the firm of his mills of Perth, and also the tenth of his mills upon the river Almond. Chart. Scone, 16. We are informed, indeed, in Prynne's Henry III., p. 72, that mills first paid tithes in England during this reign.

(*i*) Chart. of Melrose, 130-131; Chart. of Scone, 58. There was a *wind*-mill at Aberdeen before the year 1271. Charter in Stewart's Col., 48; yet Anderson remarks that *wind*-mills are thought to have been invented in 1299. Chron. Deduct. of Com., i. 140. Lord Kames asserts that *wind*-mills were not introduced into Italy till the fourteenth century. Sketches, i., 87.

the products of their farms (*k*). The nobles followed the agricultural example of the kings. They also, as they had many manors in their proper demesne, made similar concessions to the monks whom they wished to favour. The great Barons, as well as the Kings, were ambitious to possess large studs, the tenth of the produce whereof they sometimes granted to the monks. The Bishops and Abbots emulated the nobles in the extent of their possessions, and the greatness of their georgic establishments: from the variety of their granges, and the number of their flocks, they may be considered next to the kings, as the greatest farmers of those times. Yet, wool, and skins, appear to have been in Scotland, the principal articles of foreign traffic, like other countries which are yet in their commercial infancy (*l*).

(*k*) In their earliest charters to the monasteries the kings granted a proportion of their products to the monks. Alexander I. gave the monks of Scone one half of the hides which belonged to his kitchen, and of all skins of sheep, one half of all fat and blood, the tenth of the king's bread wheresoever on the north of Lammermoor. David I. confirmed this grant, and added to it the half of the skins and fat of all the beasts which were killed, for the king's use, on the north of the Tay; and these grants were confirmed by Malcolm IV. and by Robert I. Chart. Scone, 1, 7, 16, David granted to the church of St. John at Roxburgh the tenth of the fat of the beasts slaughtered for him in Teviotdale. Chart. Glasg., 265. David I. granted to the monastery of Holyrood the half of the fat and tallow, and of the hides of his beasts, which were killed at Edwinsburg; and all the skins of the rams, sheep, and lambs, belonging to his *castle of Linlithgow,* which should die naturally. Mait. Edin., 145. The same king granted to the monastery of Dunfermline the half of the hides and of the fat and blood of all the beasts which should be killed for the *feasts held in Stirling,* and between the Forth and Tay. Chart. Dunferm. David I. granted to the monastery of Cambuskenneth the half of the hides and of the tallow and fat of all the king's beasts which were killed at Stirling. Chart. Cambusken., 29, 55. Alexander II., wishing to free *his kitchen* from the intrusion of the monks, granted to the monastery of Dunfermline the lands of Dollar "in "feudo de Clacmanan," in exchange for all the rights which they were in use to receive *from his kitchens* and *those of the queen his spouse,* and also for the corn which they used to receive from his manors of Kinghorn and Crail. Chart. Dunferm. The same king granted to the monks of Scone the lands of Blar in exchange for the tenth of the bread which they used to receive from his house and that of the queen, and for the fat and other things which they used to have from the kitchens and larders of himself and his queen. Chart. Scone, 21. He also granted to the monks of Kelso 100 shillings yearly from his farms of Roxburgh in exchange for the cows and swine and skins of beasts which they used to receive from Nithsdale, for the skins and fat of beasts from Carrick; for the skins and fat of the beasts which were slaughtered for his use on the south of the Scottish sea [the Forth], and for the skins of the sheep and lambs and all other rights which they had from his house and kitchen. Chart. Kelso, 16.

(*l*) Alexander III. addressed a precept to the Mayor of Berwick, requiring him not to prevent the sale of wool which belonged to the prior of Coldingham. Chart. Cold., 6. The Abbot of Dundrennan, in 1292, speaks of *sacks* of wool to Edward I. in his petition to him in Parliament. Rolls of Parl., ii., 470. In 1303 the Abbot of Melrose states his sacks of *wool* and lasts of *skins,* The great body of the tillers of the land were, in those early times, as we have seen, bondmen, and villeyns, rather than freemen and farmers, who were employed, indeed, by the Kings and Barons, by the Bishops and Abbots; and who had not of their own any property. There were also settled in the agricultural villages, which greatly abounded, as there were few separate farms, many free tenants who paid many services to their lords, and many cottars who besides cultivating their tofts, followed some domestic trade; and yielded frequent services to their superiors. Those classes of husbandmen, who were continually augmented by the emancipated villeyns, could have but little capital to cultivate their lands, and few hands but their own to work with. When the Kings and Barons, the Bishops and Abbots, began to emancipate *their men*, those eminent husbandmen leased their lands to till, with beasts, to stock their farms, and capital to carry on their operations. In the varieties of such affairs, the proprietors of the soil gave the cultivators not only possession of the land, but a lease of the stock, which was to be restored in kind, when the contract ceased (*m*). The stock, which thus accommodated both parties during ages of poverty and rudeness, was called in the law of Scotland, *Steelbow* goods. The juridical doctrine of *Steelbow* still remains, though the origin of this singular term seems to be forgotten (*n*). While agriculture was thus in its commencement, we ought not to be surprised that plenty and famine followed each other in quick succession (*o*). A rude legislator at length inter-

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in his petition to Edward I. in Parliament. Ib., 473. William the Lion granted to the monks of Holmcultram *peace within his realm*, and the right to bring their *wool* and other merchandize for sale through his country, and to sell the same "in burgis meis." Dug. Monast., v. 272.

(*m*) In the *Formulare Anglicanum* of Madox there are examples of leases in England during early times of demises of manors with the stock; there is the demise of lands, with the villeyns thereon, 130. In 1424 A.D. there is the lease of a manor, with the dead and living stock, and among other articles there are a bull and thirty cows, which were each valued at eight shillings. There was a covenant in the language of the times: "Alle this to leve and to delivere to the said "William Skrene, or to his heyres atte the terms ende." Ib., 144. Here, then, is the practice which became early prevalent in Scotland under the name of *Steelbow*, owing to the want of agricultural capital.

(*n*) None of the Scottish lawyers pretend to explain the meaning of the word *Steelbow*, though they explain the nature of the thing. In this penury of exposition, Skene is silent. Now, *steal* in the Anglo-Saxon of Somner signifies *locus, statio, conditio; bod* in the British, *bo* in the Irish, *bo* in the Scandinavian, and *bye* in the Anglo-Saxon, mean a *habitation;* so *Steelbo* signified the state or condition of the habitation; and we learn from Stair, Erskine, and other Scottish lawyers, that the great quality of *Steelbow* goods was that they should be restored at a given period in the same state and condition as when they were leased. Institutes.

(*o*) In 1196 there was so continued a famine in Scotland, that many persons died for want;

posed. William the Lion tried to promote agriculture by giving protection to *husbandmen*, by promoting general quiet, by regulating mills, by preventing the damage of swine, and repressing the multitude of sheep (*p*). Alexander II. went beyond his father in his zeal of agriculture. He made a variety of regulations for promoting this salutary object, which would be deemed extremely curious if we could believe those statutes to be perfectly genuine (*q*).

While agriculture was yet struggling with the difficulties of its first period, it is said, with more confidence than knowledge, that Scotland was of old wholly naked, and appears never to have been much more woody than it is at present (*r*). Even the Caledonian wood of classic times thus is torn up by a single blast of systematic scepticism. There is, however, every sort of proof that every district of Caledonia, as the names implies, was anciently covered with woods. The many mosses of Scotland were once so many woods, as we may learn from the number of trees which are constantly dug from the forests that have lain for ages below the surface. During the twelfth and thirteenth centuries, not only the kings, but the bishops, the barons, and abbots, had their forests in every district of North-Britain in which they reared infinite herds of cattle, horses, and swine. It will scarcely be credited that many bleak moors, which now disfigure the face of the country and produce only barren heath, were formerly clothed with woods that furnished useful timber and excellent pasturage, yet is the fact clearly proved by the positive evidence of record (*s*). Oak appears in those times to have been the wood of most ge-

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in 1198 there was an uncommon scarcity, and abundant plenty ensued. Lord Hailes's An., i., 297-9. In 1259 there was so great a dearth that a boll of meal sold for four shillings. Ib., 305. There are many notices in the chartularies of the wants of individuals, of their relief by the Abbots, and of the conveyance of lands in repayment.

(*p*) Stat. William, ch. 9-24-33-38, in Skene.

(*q*) Stat. Alexander II., ch. 1-18, in Skene.

(*r*) Wallace on Peerages, 34-5.

(*s*) The monasteries not only acquired from the kings and the barons many special grants of the use of particular forests in pasturage, panage, and for cutting wood, for building, burning, and all other purposes, but they also got from the kings general grants of the same privileges in all their forests throughout the kingdom. Earl David granted this *general right* to the monks of Selkirk; and he extended it after he mounted the throne to the monks of Kelso. Chart. Kelso. The monasteries of Dunfermline, Holyrood, Jedburgh, Dryburgh, Scone, and others enjoyed the same general privilege by the grant of David I. Malcolm IV. granted similar rights to the monks of Cupar and of Scone, William the Lion granted the same privileges to the monks of Arbroath. Alexander II. granted the same general rights to the Knights Templars and their men. Chart. Aberdeen, 31. Walter the Stewart granted to the monks of Paisley the use of all his forests for pasturage, pannage, and cutting wood for building, burning, and all other purposes. Chart. Paisley. It must be remembered that the various grants to the monasteries of the use of the forests extended to the people living under the monks, and cultivating their lands.

neral use. The bridges, the castles, the churches, and the towns, were chiefly built with this useful timber. The waste of domestic use as well as the wars of Edward I. left many woods of great magnitude and usefulness in every shire of Scotland at the accession of Robert Bruce (*t*). Still more wasteful wars commenced with that event which may said to have lasted, with little intermission, during half a century. Add to the devastation of those wars the destruction of time and chance, of neglect and idleness, whence we may clearly perceive adequate causes of the deplorable waste of the Scottish woods. There are in the maps of Scotland a thousand names of places which are derived from the woods which no longer exist on the face of the country; and there are in the Chartularies numerous notices of forests in many places where not a tree is now to be seen (*u*).

(*t*) John Despanyding, the canon of Elgin, who had the honour to be the host of Edward I., claimed by petition twenty oaks out of the forest of Langmorgan, to repair his church of Duffus. The prayer was granted. Rolls of Parliament, ii., 469. From the bare appearance at present of Langmorgan, the undoubted site of the ancient forest, it is not easy to be persuaded that a wood of oaks ever existed there, yet very large oaks have in our own times been dug from below the unpromising surface. The Earl of Buchan petitioned the same king that, in consideration of the destruction of his manors by the war, he would grant him *maremium.* Edward I. granted him fifty oaks out of the forests of Buchan and Kintore. Ib., 469. Raufe le Chene petitioned for two hundred oaks out of the forests of Thornaway and Langmorgan, which were granted by the same king. Ib., 471. The Abbot of Jedburgh petitioned for twenty oaks out of the forest of Platir in Forfarshire, to repair the church of Restennet, which had been destroyed by the war. The oaks were granted. Ib., 473. There were forty oaks granted out of the forest of Selkirk, for a similar purpose, to the Abbot of Melrose. Ib., 472. Edward, to whom those petitions were addressed, as he had traversed Scotland, knew from observation that such forests existed.

(*u*) Earl David granted to the abbot and convent of Selkirk the privilege of cutting his woods, either for *building* or *burning,* as freely as himself enjoyed the same. Chart. Kelso, 4; King David gave to the abbot and convent of Dunfermline and their men a similar privilege of cutting his woods, either for *building* or *burning.* Chart. Dunferm.; MS. Monast. Scotiæ, 105. The same king conferred on the abbot and convent of Holyrood and their men the right of taking from his forests in Stirling and Clackmannan wood for building and other purposes, and also pannage for their swine. Maitl. Edinburgh, 144. There was, during the 12th and 13th centuries, an extensive forest between the Leader and the Gala, of which David I. granted the monastery of Melrose the free use, both for wood and pasturage; and he granted them the same easements in his forests of Selkirk and Traquair. Chart. Melrose, 54. The same king granted to the abbey of Dryburgh the lands of Cadysley, with free pasture and the right of cutting wood in his forest. Dugdale's Monast., ii., 1054. David I. also granted to the monastery of Scone the right of taking wood from all his forests throughout Scotland, and particularly from the forest between Scone and Cargill; and this was confirmed by Malcolm IV. and by Robert I. Chart. Scone, 16. The same king granted to the monastery of Jedburgh a similar privilege of pasturage and of wood-

Wood, as it was the most obvious to the eye, was probably the earliest fuel; and this circumstance contributed greatly, while the spirit of plantation was extinct, to destroy the Scottish forests. As ironworks, in modern times, waste the woods; so in those early ages the saltworks thinned the forests (*x*). During the age of David I., turves and peats were used as fuel, as well as wood (*y*). Fossil coal, which was probably known to the ancient Britons, began to be dug in England during the reign of John; and became an article of trade under Henry III. (*z*). The year 1291 is said to be the epoch of the first charter, giving the right to dig for coal in Scotland (*a*). The fossil coal, however, did not become the common fuel of North-Britain, till much more recent times (*b*).

bote in his forests. MS. Monast. Scotiæ, p. 29. There were forests around the royal burghs of Elgin, of Forres, and of Inverness, in which King William granted the bishops of Moray and their men the right of pasturage and of wood-bote, and his burgesses in those burghs had the same privileges. Chart. Moray, 73. There was a forest called the Stocket in the vicinity of Aberdeen, and an extensive forest called the Plater in the heart of Forfarshire, both which are frequently mentioned in the charters of the 13th and 14th centuries. Chart. Aberdeen; Chart. Arbroath; Robertson's Index. There was anciently a forest called Drumselch near the city of Edinburgh. Walter, the son of Alan, granted to the monastery of Paisley, "*maremium* et *focalium* "ad *comburendum*," out of his forest of Senecastre in Kyle. Chart. Paisley, 46. The chartularies abound with notices of forests in every shire during the Scoto-Saxon period. In the invasions of Scotland by the English, it was the common practice of the invaders to burn and destroy the Scottish woods. Knyghton, 2674-5.

(*x*) In the various grants which the kings and the barons made of Saltworks to the monks, they gave the right of supplying them with fuel from the woods. The waste of woods by the saltworks was felt as early as the beginning of the 13th century. Duncan of Carrick granted to the monks of Melrose two saltworks in his manor of Turnberry, with eight acres of arable land, certain pastures, and all other necessary easements; "quia silve sue quas ad salinas apud Grenan habebant penitus "*combuste sunt et destructe.*" Chart. Melrose, 117.

(*y*) One of the borough laws, ch. 38, provides that inbringers of fish and *fuel* shall not be distrained but for their own debts. The fuel mentioned is *wood*, turves, *peits*. Skene's Auld Laws, 123. Hence, *petaries* became frequent objects of grant to the abbots and convents during the Scoto-Saxon period.

(*z*) Brand's Hist. N. Castle, 253-4.

(*a*) Arnot's Edin., 84, who quotes the chartul. of Dumfermline. I have, however, an original charter of James the Stewart of Scotland, the son of Alexander, dated in January, 1284-5, granting to William de Prestun the lands of Tranent, with various privileges, in moris, et maresiis, in *petariis*, et *carbonariis*. Whatever this last expression signified in prior times, it seems to have been applied to *pit-collieries* in that age. Brand's Hist. N. Castle, 253, and the records quoted by him. In the Chartulary of Newbotle, No. 73, there is a grant to the monks by Seyer de Quinci of the *carbonarium* et quarrarium, between Whiteside and Pinkie in Mid-Lothian, during the reign of William the Lion, who confirmed this grant.

(*b*) In 1510 the *coal* of Sauchie, in the shire of Clackmannan, was subjected to tithe. Chart. Cambuskenneth, 30.

As early as the age of David I., mines of the precious metals were regarded as objects of attention. The munificent prince granted to the monks of Dunfermline the tenth of all gold that should accrue to him within Fife and Fothrif (*cc*). The mines of the Lead-hills were probably known before the year 1239 (*c*). *Scalingas,* or quarries of stones for building, or slates for covering houses, also became the objects of frequent grants in those early times (*d*).

Much of the land of Scotland was, in those days, possessed, in demesne, by the kings, by the ecclesiastics and by the barons. Much was held at will, by the villeyns; and much was enjoyed on liberal principles, by freedom from the bishops and abbots (*e*). But there was much land occupied in those times, on leases for long terms. In 1170, Richard Morville, the Constable, took to firm the whole territory of Gillemorestun, for fifteen years, from Engelram, the Bishop of Glasgow, to whom he paid beforehand three hundred marks (*f*). There were, during that period, lands rented for much longer terms (*g*); and it is apparent from the veracious informations of the Chartularies, that the ec-

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(*cc*) Chart. of Dunferm.; MS. Monast. Scotiæ, 108.

(*c*) David de Lyndsay of Crawford, in a charter to the monks of Newbotle before 1239, bounds the lands thus: "A fonte Arthuri usque ad summitatem montis que est super *la minere,* et sic usque ad "summitatem montis super Balgil." The boundaries which were thus settled point directly to the *lead*-hills.

(*d*) See Cowel, in vo. *Scalinga.* David I. granted to the prior of Urchart in Moray, "*Scalingas* de Fenechty." Chart. Moray, 32. In 1157 Malcolm IV. confirmed to Walter, the son of Alan, several lands which David I. had granted him "cum *Scalingis,*" &c. Harl. MS., Brit. Museum. Malcolm IV. confirmed to the monastery of Kelso, "*Scalingas* de Bothkill," as Earl Cospatrick had conveyed the same to the monks. Chart. Kelso, 71, 377. William de Vetereponte granted to the same monastery "quasdam *Scalingas* in Lambermore que pertinebant ad Hornerdene." Ib., 139. This grant was confirmed by King William. Ib., 13. Earl Patrick, the son of Waldeve, mentions his "*Scalingas*" of Pinkerton in East Lothian, in a charter to the monks of Kelso. Ib., 71.

(*e*) The bishops and abbots granted to many deserving persons lands in fee firm, for an yearly payment of stipulated rent, as we see in the Chartularies. The barons made many such grants to their vassals for the performance of military services.

(*f*) Chart. Glasg., 161.

(*g*) In 1190 Alan, the son of Walter the Stewart, approved of a lease by the monks of Kelso to *his men* of Inverwick, of certain woods and lands for three and thirty years, paying yearly for the same twenty shillings. Chart. Kelso, 247. In 1326 Simon, the Abbot of Scone, granted a lease *for life* of his whole lands of Girsmerland to Andrew de Strivelyn. Chart. Scone, 32. The Abbot of Kelso granted to Adam de Culenhat a lease of the tithes of the parish of Kilosbern for the yearly rent of 53 marks. Chart. Kelso, 30. The Abbot of Kelso granted to Henry Whitwell a lease for life of all the lands belonging to that monastery in the parish of Dumfries, for the yearly payment of twelve shillings sterling. Chart. Kelso, 330. In the *Formulare* of Madox we may see examples of *leases* of every kind, of some for fifty years and some for life.

clesiastics, who were easy masters, conferred on their tenants constant exemptions from oppressive services, and also the invaluable benefit of continuing the possession in the same family, from husband to widow and from father to son, through several generations.

The lawless habits of early times made it necessary for the people to live in collected societies; in villages and hamlets rather than in farms for their mutual security and comfort. To these *villas*, as they are denominated in the Chartularies, was annexed a *territoria* or district of land which was cultivated by the husbandmen and cottagers in their several proportions. The husbandmen cultivated the larger divisions of *carucates*, bovates, or oxgates, and husband-lands, while the cottars improved their tenements and tofts. The pasture-lands and the woodlands were enjoyed in common, each of the villagers having a right of pasturage for a certain number of domestic animals according to the extent of the arable land which he possessed in the territory (*h*). Those villages were of different sizes according to the extent and fertility of the territory that belonged to them. Some of them had a church, some had a mill, all of them had their maltkills and their brewhouses, and even the hamlets had their brewhouses which supplied their common beverage (*i*).

(*h*) The monks acquired many grants of portions of land in those *territorias* from the landlords, who sometimes indulged them with a larger right of pasturage than usual. About 1190, Robert de Berkeley granted to the monastery of Melrose a carucate of land in the territory of Mackuston, with common of pasture for 3 horses, 12 oxen, 6 cows, 100 sheep, and 1 sow with her pigs, wherever his own cattle, or the cattle of his men, of the same manor pastured, except the corn land and the meadow. He also granted them the common easement of fuel, both in brushwood and in the turbary; and he granted to them the use of his stone quarry of Alverdene, to take stone sufficient for their building at Melrose. Chart. Melrose, 27. This was confirmed by Hugh Normanville, who succeeded Berkeley in the manor of Mackuston at the beginning of the 13th century; and also by John, the son of Hugh, who enlarged the right of pasturage for 6 horses, 40 oxen in winter, and 30 in summer, 12 cows, 200 sheep, and 2 sows with their brood, to the age of two years. Id., 30. Eschina, the lady of Moll, granted to the monastery of Paisley a carucate of land in the territory of Moll, with pasture for 500 sheep, and for other cattle, in such numbers as *belong to a carucate of land in that manor*, and all other easements. Chart. Paisley, 30. There are a great number of similar grants in the chartularies.

(*i*) The following notices will give the curious reader a distinct view of the state of those villages at the close of the reign of Alexander III. In the village of Bowden in Roxburghshire, the monks of Kelso had under them 28 husbandmen and 36 cottagers, a miller, and four brewers. The former possessed each a husband-land, with common pasture, for which they paid the rent of 6s. 8d., with various services and carriages. The whole of the cottages having each nearly half an acre of arable land, with common pasture, rented for 55s. 8d., with certain services. They had a mill which rented for 8 marks; and 4 brewhouses that let for 10 shillings each, and the brewers were obliged to furnish the abbot with a lagen and a half of ale for a penny. Chart. Kelso. In the village of

In the practice of agriculture whatever disadvantages the husbandmen may have then endured, they enjoyed advantages which our present farmers do not possess. The vast woodlands which everywhere skirted the arable grounds gave a shelter to the crops that greatly promoted their growth and amply augmented their produce. The woodlands were still more important for the warmth which they afforded a bleak country and for the pasturage that they supplied numerous herds. Thus the universal woods enabled the husbandmen to raise larger quantities of corn, and to rear greater numbers of swine, cattle, and horses, than modern prejudice will easily believe (*k*).

During that period the cultivation produced oats, wheat, barley, pease, and beans, but in very different proportions than modern husbandry supplies. Rye seems to have been scarcely cultivated. Oats were cultivated in a much greater, and barley in a much smaller, proportion than they are at present. Yet oats was by far the most common grain, and furnished both bread and drink to the lower orders (*l*). Malt was chiefly manufactured of oats, though some was made of barley (*m*). The consumption of malt was very great, as we know from the number of maltkills and brewhouses in every town, and

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Middleham, 29 husbandmen rented each a husband-land, with common pasture, for 6s. 8d., and paid various services and carriages; and 11 cottagers rented each a cottage, with nearly an acre of arable land and common of pasture, for 17d. Id.

(*k*) The Chartularies are full of notices touching the woodlands, and speak often of the *forest mares*, and still more frequently of the mast for swine.

(*l*) At all the mills vast quantities of oats were ground into meal and malt, as we see in the Chartularies. Oats, oat-malt, and wheat are the only grains which we see disposed of in large quantities. On the 31st August, 1300, William de Carlisle had 80 *acres* of oats at Dornock destroyed by the cavalry of Edward I. returning from Galloway, for which the English king made him an allowance of £24. Several days after another body of cavalry damaged an additional quantity of corn belonging to the same person, and some belonging to his neighbour, the widow of Robert de la Fierte, for which Edward allowed them *two butts of wine*. Wardrobe Account, 1300, p. 173, 126. From these notices we may see the large quantity of oats which one of the smaller landholders of Dumfriesshire raised in one year; and that, upon the 31st of August, their damage was valued at 6s. the acre. From the same curious record we see that the *oats* purchased in the south of Scotland for the English cavalry cost 3s. 6d. *per quarter*; and *oat malt* was furnished for the garrisons at the *same price*.

(*m*) The *braseum avenæ* appears frequently; the *braseum ordei* very seldom. Wherever we see large quantities of malt ground or disposed of it is *oat malt*. *Barley malt* was more rare and higher priced. In 1300, *oat* malt was 3s. 6d., and *barley* malt 4s. 4d. per quarter. In the years 1299, 1300, large quantities of *oat* malt was furnished to the various garrisons which the English king had in the south of Scotland. Wardrobe Account. The Statutes of the Gild, ch. 39, regulate the sale of *oats* for *brewing* in the markets of the towns.

from the quantity of ale which was consumed as the common drink (*n*). Wheat was much cultivated during those ages, throughout the south and east of Scotland (*o*); and even in Galloway, wheat appears to have been raised in considerable quantities (*p*). The higher orders, the monks and the townsmen, ate chiefly wheat bread of various qualities (*q*). As little barley was grown, and green crops were scarcely cultivated, the manure, which was not much, was applied to the cultivation of wheat. Pease and beans were raised only in small quantities (*r*). Much corn was undoubtedly cultivated, during the Scoto-Saxon period. During fruitful seasons, enough was raised for domestic consumption, and furnished some supply for exportation (*i*). Yet, in those ages famine frequently returned, when the people who did not then enjoy the many substitutes of modern times, greatly suffered. Besides corn, little else was

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(*n*) This is attested by the vast quantities of malt which was ground at the mills; and by the great numbers of brewhouses, not only in the towns, but in every village and in every hamlet. The kings appear to have had breweries at various places. David I. granted to the monastery of Dunfermline the tenth of his breweries in Fife. Chart. Dunfermline.

(*o*) See the Chartularies throughout. Oats and wheat were the grains which were chiefly cultivated by all the higher ranks, the kings, the barons, the abbots, bishops, and their landholders. David I. granted to the monastery of Dunfermline the tenth of the *wheat* and *oats* from his manors of Kinghorn, Kellie, and Crail in Fife. Chart. Dunferm. In 1209, William the Lion gave, as a mark of his regard, to the Bishops of Salisbury and Rochester who had retired into Scotland, 1280 bolls of wheat, 1280 bolls of oats, and 1056 bolls of malt. Chron. Melrose. Wheat and oats are the only grains which we see sold in large quantities, and they are always joined together.

(*p*) In 1300, when Edward I. invaded Galloway, he purchased considerable quantities of wheat, which he exported from Kirkcudbright to Whitehaven, and other ports of Cumberland, where it was manufactured; and whence the flour was sent to the garrisons of Galloway and of Ayr. Wardrobe Account of that year. The modern agriculture of Galloway could not, perhaps, supply such an export of wheat as Edward made from Kirkcudbright in 1300.

(*q*) The large quantities of wheat which was ground in the mills, particularly in the mills of towns, attest how much was consumed in bread. See the Chartularies throughout. In the south of Scotland wheat was, in 1300, sold at 7s. per quarter; wheat flour was mostly at 6s., but some was as high as 7s. and 8s. per quarter, and some was as low as 5s. 6d. Wardrobe Account.

(*r*) In 1299, unground pease for boiling, which the English used in the garrisons of Scotland, cost 2s. 9d. per quarter, while the beans for their horses cost 5s. 6d. per quarter. Wardrobe Account of that year. Lord Hailes, from Hemingford, intimates that while the English were besieging Dirleton Castle they *subsisted* on the pease and beans which they found in the surrounding fields. An., i., 310. The Englishmen may have ate what they found; but they were *subsisted* from England.

(*s*) In performing their usual services to the Abbot of Kelso, his tenants were obliged to carry on each horse to Berwick, the usual place of export, three bolls of corn in summer, and two in winter. They brought in return coals and salt. Chart. Kelso. Corn was also exported, with the wool and skins, from Leith and other ports in Lothian, as we learn from the Chartularies.

cultivated in the fields. Lint was certainly cultivated, as we know it paid tithe as early as the twelfth century (*ss*). Though artificial grasses were not cultivated; yet, the natural meadows, and the forests, supplied much grass that was made into hay, which paid tithe as early as the twelfth century; as we learn from the Chartularies (*t*).

The operations of agriculture were performed during the Scoto-Saxon period, partly by horses, but more by oxen, which were chiefly dedicated to the plough, while the horses were employed in the cart. The oxen were also yoked in waggons, which were only used about the farms for short carriages; while the horses were employed in the carts which went to a great distance (*u*). During the Scoto-Saxon period, great numbers of horses were reared, both on the granges, in domestic studs, and in the extensive forests, where many breeding mares run wild (*x*). The horses of that period, as they were much used in war, in tournaments, and in the chase, as well as in drudgery, were of great value, as they were in considerable demand.

Black cattle were also reared in great numbers during the Scoto-Saxon period (*y*). The dairy was a considerable object of attention in the early ages

(*ss*) Chart. of Glasgow and of Moray.

(*t*) At the demise of Alexander III., the monks of Restennet enjoyed the tenth of the hay which was made within the forest of Platir in Forfarshire. MS. Monast. Scotiæ, 31. As early as 1242, the parish priest was entitled to common of pasturage throughout his whole parish.

(*u*) See the Chartularies throughout. Among the services which were performed by the tenants of the Abbot of Kelso, we may perceive that the oxen wain was employed in carrying the corn in harvest, and peats in summer; but the carriages to Berwick were performed by horses with carts. Chart. Kelso. The numerous cottagers who lived in the hamlets were, among other services, obliged *to weed* the corn of the landlords. Id.

(*x*) David I. granted to the monks the tenth of the produce of his breeding mares in the forests of Fife and Fothref. Chart. Dunferm. He gave to the Prior and Canons of Restennet the tenth of his horses, which were bred in the forests of Forfarshire. MS. Monast. Scotiæ, 31. In 1247, Patrick, the Earl of Dunbar, sold to the monks of Melrose his whole breeding stud in Lauderdale. Chart. Melrose, 145. Gilbert de Umfraville granted to the monks of Kelso the tenth of the foals of his breeding mares in the forest of Cottenshope; and these foals he allowed should follow their dams till they should become two years old. Chart. Kelso, 323. In the account of the animals which belonged of old to the monks of Melrose, there are no fewer than 325 forest mares and horses, 54 domestic mares, 104 domestic horses, 207 stags or young horses, 39 three-year old colts, and 170 two-year old colts. Chart. Newbotle.

(*y*) In the more cultivated districts, cows were kept in the proportion of ten to every plough. In the less cultivated districts they were kept in much greater numbers, and furnished the chief means of subsistence, as they had everywhere done, during Celtic times. Cows continued long to form the general measure of value in which dues and forfeitures were paid.

of the Scottish history, and cheese had been made in great abundance (*z*). As the people lived much on animal food the cattle were all consumed within the land while their skins formed a considerable article of export. Sheep were numerous in every district. The flesh was consumed in the domestic economy, but their wool and skins formed great articles of household manufacture and foreign traffic. As the wool was a great object of agricultural revenue, proper attention appears to have been paid to the cleanness of the sheep by washing them at stated periods (*a*). *Smearing* was in those times unknown, and while a large proportion of the flock consisted of ewes the wedders were killed at three and even two years old, so contrary to modern practice (*b*). Goats also formed in those times a part of the stock, even in the districts of the south, as we may learn from the Chartularies. They are continued in the mountainous districts even down to our own times. Swine, also, were reared in great numbers in every district and by every husbandman from the highest to the lowest, as we know from the Chartularies (*c*). The numerous woods which then sheltered the land supplied abundance of mast (*d*). The swine were probably all consumed, as we hear nothing of any export of the flesh. The ancient practice of raising swine seems lately to be resumed with profit to the individual and advantage to the country. Poultry, also, was an object of great attention in those times, as we know from the Chartularies. Under Malcolm IV. the monks of Scone received as their cunveth

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(*z*) Earl David granted to the monks of Selkirk the tenth of his *can* of cheese in Galloway. Chart. Kelso, 4. In 1128 David I. conferred on the monks of Kelso the tenth of the cheese which he received from Tweeddale. Ib., 1. He granted also to the monks of Scone the tenth of his *can* of cheese from his manors of Gowrie, Scone, Cupar, and Forgrund. Chart. Scone, 16. He gave to the monks of Rindalgros the tenth of his cheese and corn from the district around Perth. Chart. May, 10. The same founder of the Scotican Church granted to the monks of Cambuskenneth "viginti cudrumis casei de redditus mei de Strivelin." Chart. Cambusk. Among the ancient dues which were payable to the church of Hurkendorach [Auchterderran] in Fife, there were "triginta caseos quorum quilibet facit chudreme," &c. Reg. of St. Andrews. Malcolm IV. granted that the monks of Scone should receive as cunveth from every ploughland yearly "viginti dimidias melas casei," with various other articles of produce. Chart. Scone, 16.

(*a*) The cottagers who lived in the hamlets were obliged, among other services, to assist at the washing and shearing of the sheep of the landlord. Chart. Kelso.

(*b*) Chart. Kelso, Newbotle, Melrose.

(*c*) Even the cottagers in those times seem to have had a right to common of pasture for a sow and her pigs. The kings received swine from every district as *can*, and the monks received swine as a part of their cunveth.

(*d*) The monks obtained both from the kings and the barons many grants of *panage* for their swine in the forests.

from every ploughland which belonged to them, *ten hens*, with other articles of the farm, at the feast of All Saints (*e*). The monks of Kelso had *their hens* at very easy rates from their hamlets *(f)*.

After this full discussion of rural affairs, a reasonable curiosity may desire to know something of the value of land during the Scoto-Saxon period of the Scottish annals. In the reign of Alexander II., Richard Burnard sold the monks of Melrose a meadow at Farningdun, containing eight acres, for thirty-five marcs (*g*). In 1225 Adam de Stawel sold to Ermengard, the queen dowager, when she was about to found a monastery, the lands of Balmerino, Ardin, and Cultrath, for a thousand marcs *legal sterlings* (*h*). The rents of the lands and of fishings must have been then very various (*i*). Yet from all those

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(*e*) Chart. Scone, 16.

(*f*) From every house of every hamlet belonging to the monastery of Kelso, the abbot took *a hen* at Christmas for a halfpenny. Chart. Kelso. Some of those hamlets contained from 60 to 70 households.

(*g*) Chart. Melrose, 52. Stephen de Melginsh sold the monks of Scone a tenement in the village of Balursin, with a toft and two acres of land, for two marcs of silver. Chart. Scone, 61.

(*h*) Chart. Balmerino, 6.

(*i*) Two carucates of land in the manor of Malcarvestun, with common of pasture for a number of cattle, sheep, and other beasts, let for forty shillings yearly. A carucate and a half of land at Selkirk, with common of pasture, rented for ten marks. A carucate at home, with four tofts, common of pasture, and other easements in that manor, let for six marks. Two carucates at Fogow, with common of pasture and other easements, let for four marks. One carucate at Gordon let for two marks. A grange at Whitemere, which was cultivated by two ploughs, let for ten marks. A bovate of rich land at Sprouston let for ten shillings. Two bovates at Simpring was let for one mark, or 13*s.* 4*d.* The general rent of each husbandland in Roxburghshire was 6*s.* 8*d.*, though some rented for 6*s.* Fifteen husbandlands at Selkirk, containing each a bovate, let for 4*s.* each. Husbandlands were small portions of arable land in the agricultural districts which were cultivated by the "*Husbandis*" or husbandmen who lived in the village. Some of the husbandlands were equal in extent with the bovate, while others were larger. Chart. Kelso. Four acres of land at Selkirk let for 6*s.* Thirty acres which were detached, without the manor, let for 5*s.* Three acres of land at Hope-Kailie, in Tweeddale, let for 3*s.* Forty acres of land, with a brewhouse, common of pasture, and other easements at Closeburn, in Dumfriesshire, let for two marks. The tenants of all those carucates, bovates, and husbandlands, performed certain services in addition to the specified rent. Twenty-one cottages at Clarilaw, having each nearly three acres of land, with common of pasture, let for two bolls of meal each, with certain services. Six cottages at Whitmere, with an acre of land and common of pasture to each, let from 4*s.* 6*d.* to 5*s.* each. A cottage without land, at the same place, let for 6*d.* only, so little was the house valued. The great objects were the land and pasture. Twelve cottages at Malcarvestun, each having a toft and half an acre of arable land, with common of pasture for two cows, let from 1*s.* 6*d.* to 4*s.* each, and certain services. From these intimations an idea of the rents sufficiently precise may be formed. A fishing at Berwick let for £20 yearly. The fishing of Wudehorn, at Tweedmouth, let for 14 marks. The fishing at Northariun, at the same place, let for two marks. Chart. Kelso.

notices, we may infer that land was plenty and money scarce, though the whole domestic economy of North-Britain was in a state of gradual improvement.

Horticulture as a science came late into northern Europe. Systematic writers have laboured to prove that the products of the garden were hardly known to the modern Scots (*k*). Yet David I. cultivated a garden under the walls of Edinburgh Castle, near the spring which still marks the ancient site, by the continued flow of its waters (*l*). David I. had seen the horticulture of England under Henry I., and we may reasonably suppose that he was prompted by his genius to profit from the useful, and to adopt the elegant in that agreeable art. The nobles followed the salutary example of the kings in cultivating gardens and orchards (*m*). The abbots, as they were the earliest

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(*k*) Wallace on Peerages, 39. At the revolution, says he, hardly a garden was found nearer Edinburgh than Musselburgh and Inveresk. He might have excepted the *Hortus medicus Edinburgensis*, a catalogue of which was compiled by its learned superintendent, James Sutherland, and printed at Edinburgh, 1683.

(*l*) The garden of David I. is emphatically mentioned by him in his charter of Holyrood. Maitl. Edinb., 144. The same royal garden is also remembered in other charters of David. David II. granted to Malcolm Pagainson the keeping of the king's gardens at Edinburgh. Robertson's Index, 39. William the Lion granted to the monastery of Cambuskenneth the church of Kincardine, "et unum toftum brasiatori cum uno *orto*, et unum toftum ad campanum sancti Lolani, "cum uno *orto*, et unum toftum ad baculum sancti Lolani cum uno *orto*." Chart. Cambusk., 132. We thus see that gardens were common in the age of William the Lion. Roger de Quinci possessed a garden without the walls of Perth, which he granted to the monks of Scone. Chart. Scone, 57. Walter, the son of Alan, in his charter to the monastery of Paisley, mentions his *garden* at Inverwick in Haddingtonshire. Chart. Paisley, 48. Alan, the son of Walter, granted to the monks of Newbotle a toft near his *garden* at Renfrew. Chart. Newbotle, 199. The Bishop of Glasgow speaks of his *garden* in that city. Chart. Glasg., 201. An agreement between the priory of St. Andrews and the monastery of Haddington, in 1245, mentions "duarum bovatarum "terre contentarum in *veteri gardino* de Stefinston et terre que jacet inter *vetus gardinum* et villam "de Hadington." Antiq. Trans. Edin., i., 119. In Bondington, near Berwick, there were gardens in those times. Chart. Kelso, 41. Peter de Hage of Bemerside granted a messuage and *garden* to the monastery of Dryburgh. Chart. Dryb., 97. Henry de Anstrother granted a messuage with a *garden* in Anstruther to the same monastery. Ib., 190. There are various other notices of gardens in the Chartularies.

(*m*) Chart. Scone, 57; Chart. Paisley, 48-199; Chart. Glasg., 201. Roger, the Bishop of St. Andrews from 1188 to 1202, confirmed to the monastery of Scone the church of St. Kentigern, of Locherwart, in Mid Lothian, with one acre and one particate of land near the stream, "sub *pomerio* ejusdem ecclesie." Chart. Scone, 43. In a *taxation* of the vicarages of Haddington, by the authority of William, the Bishop of St. Andrews from 1202 to 1233, there is mention of all the tithes, "Cartilagiorum et *pomeriorum* infra burgum." Harl. MS., Brit. Mus. The same bishop, in confirming that *taxation*, speaks of the "decimæ *hortorum* infra burgum." Trans.

improvers, were studious to plant orchards that are still apparent to the eyes of antiquaries, and to cultivate gardens which can only be traced now in the Chartularies (*n*).

The dwellings of the Scots in that age were either extremely inconvenient or very mean, as we have already in some measure seen. The Scottish kings and the nobles and bishops dwelt in castles which, as they were perched on some precipitous rock, were built with a view to strength rather than convenience. The lesser barons lived in square towers which were constructed, as we may perceive from their thick walls and narrow apartments, more for defence than comfort. The hovels of the common people were slight erections of turf or twigs which, as they were often laid waste by war, were built merely for temporary accommodation. Their towns consisted chiefly of wooden cottages. Even as late as the sixteenth century, the churches which were generally covered with thatch, were disfigured by the reformers. The cathedrals and abbeys, however, were structures of great labour and expense, of magnificence and taste, as the judicious eye may perceive in their ruins (*o*). The

Antiq. Edin., i., 114. Richard Morville, the Constable of Scotland, in confirming to Henry de Sinclair a parcel of land in Salton parish in East Lothian, describes it as the toft, "que jacet "juxta *pomerium*. inter Calkeburn et Wacellum quod est in parte occidentali Berkerie." Diplom. Scotiæ, pl. lxxv.

(*n*) Before the beginning of the 13th century, the Scottish gardens had been subjected to tithes, as we have seen above. By the canon 35, De decimis *hortorum*, it was decreed in 1269 that the tithes of gardens in cities and burghs should belong to the vicars, and that the tithes of gardens in villages wherein corn was cultivated should belong to the parson: but for other articles cultivated in such gardens the tithes should remain to the vicar. L. Hailes's Councils, 20. The Statuta Ecclesiæ Aberdon, A° 1256, states, "ut omnes canonici immunes sint in perpetuum a "prestatione *decimarum ortorum* virgultorum et croftorum, in civitate de Aberdon." Chart. Aberdeen, 68.

(*o*) Arnot's Hist. Edin., 61; Grose's Antiquities; Cardonell's Picturesque Antiquities. Their towns, as they were built of wood, were frequently burnt down by accidental fires. About the year 1244, Haddington, Roxburgh, Lanark, Stirling, Perth, Forfar, Montrose, and Aberdeen, were thus destroyed. Fordun, l. ix., c. 61; L. Hailes's An., i., 302. Even as late as 1600, the houses of Edinburgh were chiefly built of wood. Maitl. Hist. Edin., p. 6-7. In 1177 A.D. a controversy between the Abbot of Kelso and one Lambert, respecting a land in Berwick, having been decided against Lambert, the abbot, from commiseration, gave him a piece of land at Roxburgh, with 20 *shillings*, to erect buildings. Chart. Kelso, 445. In an "Inquisitio terrarum de Monachkeneran," A.D. 1233, an oath was made that sixty years before a person called Bede Ferdan inhabited near the church of Kilpatrick, the birth-place of the Irish apostle, the *great house* which is *built of twigs*, "*domo magna fabricata de virgis*." Chart. Paisley, 274. Roger de Quinci, the Constable of Scotland, granted to the monks of Scone his *stone house* in Perth, in the street leading northward to the Inch. Chart. Scone, 57. This notice evinces that they had begun in

English, the Normans and Flemings, who settled in Scotland during the twelfth century, built their strongholds of stone and lime. So firmly were they cemented, that the walls, which were of great thickness, appear at present like solid rocks. The Celtic chiefs continued to construct their castles of *wood*, which were easily burnt and no longer remain (*p*).

Yet many notices might be found in the Chartularies, which would show the gradual increase of the towns in their population and trade during the Scoto-Saxon period. A comparison of what they were in respect to both those important objects, between the twelfth and thirteenth centuries on the one hand, and the fourteenth and fifteenth on the other, would evince their perceivable progress. In the twelfth century, we see that the kings drew but a very inconsiderable rent from their towns, which had not then acquired either inhabitants or commerce to afford much revenue to the kings or profit to the people. We have perceived the successive kings during that age very active, in drawing to their towns new settlers, and promoting their traffic by particular privileges and local monopolies (*q*). During the fourteenth and fifteenth centuries the kings may be seen in the Chartularies, equally busy in granting annuities and settling pensions on their children and favourites from the mails of their burrows, and the customs of their ports, which had both increased during succeeding ages of happiness and adversity. From those intimations we may perceive a progress, though the towns, even during the fifteenth century, were but hamlets when compared with the same towns during the eighteenth century, when industry had invigorated and enriched their inhabitants.

Though the people of every rank were but badly lodged; yet were they in general well fed. The lower classes certainly enjoyed a much larger proportion of animal food than they partake of at present. Cattle, swine, and poultry, were raised by them in great abundance, and were all consumed at home. Their bread was made of wheat and oats. The better ranks enjoyed wheat bread, while the lower orders ate the bread of oats, and sometimes of barley and pease. The higher ranks enjoyed the luxury of wine; but the principal

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Scotland to build stone houses. We may learn, indeed, from the Chartulary of Kinloss, in Moray, that when Edward I. came there with his numerous attendants, the abbot and convent erected some houses for their accommodation in the *English manner*.

(*p*) During the rebellion of Gillescop, in 1228, he burnt several *wooden* castles in Moray. Fordun, l. ix., c. 47.

(*q*) David I., Malcolm IV., and William, made a profusion of grants to individual settlers, and to the collective monks, of tofts in the towns for the purpose of building; and we have seen the same kings promoting industry and inviting trade.

beverage of the common people was beer, which they chiefly brewed from malt of oats. The great quantity of malt, which was ground at the mills, and the number of brewhouses which appeared in every village, and in every hamlet, attest the great quantities of ale which was made and consumed (*r*). None of the malt was manufactured in those simple times into the less healthful beverage of spirits. Alehouses were settled in the towns and villages as early as the salutary reign of David I., who regulated their use by an assize (*s*).

The agricultural improvements of the country were, during the Scoto-Saxon period, equally encouraged and were equally successful. The kings were the greatest improvers, and gave the most encouragement to improvement; as the chartularies attest. The barons followed their useful example, as we have already seen. But the monks were above all the most skilful and assiduous improvers. They had most knowledge from what they had seen in other lands; they had most capital; they possessed the greatest number of hands from having many *villeyns*; and the monks and their men enjoying more quiet, security, and exemption, were able to make greater agricultural exertions. They cultivated the wastes, they subdued the woodlands, they rendered what was already arable, more productive; and those improvements which were called in the chartularies, *incrementum* and *wainagia*, they enclosed sometimes by living hedges and often by wooden fences. They also pursued the useful practice of drainage; and they moreover gave a value to all those improvements by facilitating the communications of a rugged country, by making roads upon the Roman models, and building bridges for passing the torrents of a mountainous region (*t*).

(*r*) See the Chartularies, particularly that of Kelso, which shows that every village had several brewhouses, and even the smallest hamlet had a brewhouse. In the village of Bolden [Bowden] in Roxburghshire, which belonged to the monks of Kelso, they had under them 28 husbandmen, and 36 cottagers; and in this village they had a mill and *four* brewhouses, each of which, at the end of the 13th century, rented for 10 shillings; and the brewers were obliged to sell the abbot a *lagen and a half of beer* for *a penny*. Chart. Kelso, 14. The lagen and a half were equal to about seven quarts. There is reason to believe that those *brewhouses* were also *alehouses*, where ale was sold in retail.

(*s*) In the charter of William the Lion to Inverness, he commanded that none should have a *tavern* in any country village without the burgh, unless in such a hamlet where a knight might reside, according to the assize of David. Wight's Appendix to his work on Elections.

(*t*) All those improvements by the monks appear in the Chartularies which have transmitted their transactions. They knew and practised the modern art of making roads. They cut ditches on either side to carry off the water, and covered the roadway with hard materials. Chart. Melrose, 108.

In the midst of all those improvements and that prosperity, it may gratify a reasonable desire of information to ascertain with all the accuracy of ancient accounts, the several prices of various articles both of necessity and convenience (*u*). In every commercial and in every agricultural consideration, coin and circulation are great objects. Domestic animals, as they were of universal use, were the *circulating medium* of almost every country in the earliest ages. In North-Britain cattle were during the most ancient times the common measure of all things. Throughout the whole effluxion of the Scoto-Saxon period, forfeitures, taxes, and rents, were imposed in domestic beasts as well as in money (*x*).

Fabulists have carried back the introduction of the Scottish coinage to the congenial Reutha, to the fictitious Donald, to Malcolm II., and to Malcolm III., who are usually quoted as the reputed authors of every art or invention which is either unfounded or obscure. Bishop Nicolson by giving a sort of stamp to that base coinage, has adopted the fictions of Boece and legitimized the follies of Leslie (*y*). That useful bibliographer ought not, however, to be so much reprehended for saying too little on this curious subject, as for saying too much.

It is apparent that coinage was unknown to Celtic Scotland, as it was equally unpractised in Celtic Ireland (*z*). It is a logical and a safe mode of reasoning

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(*u*) The following statement of prices, from the Wardrobe Account of 1300, is submitted to the reader's judgment:

Wheat at 7*s.* and 8*s.* per quarter.
Wheat flour at 6*s.*, 5*s.* 6*d.*, and 8*s.* per quarter; the greatest part at 6*s.*
Oats at 3*s.* 6*d.* per quarter; oat malt at 3*s.* 6*d.* per quarter.
Barley malt, 4*s.* 4*d.* per quarter; pease, 2*s.* 9*d.* per quarter.
Beans, 5*s.* and 5*s.* 6*d.* per quarter.
Salt, 5*s.* per quarter; some was as low as 3*s.* and 2*s.* 6*d.*
Beer at 18*s.*, 16*s.*, 12*s.*, and 8*s.* per dolium or butt.
Wine, 40 dol. (hogsheads), at £3 13*s.* 4*d.*; 16 ditto, at £3; 5 ditto, at four marks, or £2 13*s.* 4*d.*; 4 ditto, at £2; 1 ditto, at £1 10*s.*
Carcases of oxen were 5*s.* to 6*s.* 8*d.*
Fat hogs (bacons) were 2*s.* 2*d.*, 3*s.*, 3*s.* 9*d.*, each bacon.

(*x*) Ayloffe's Cal. of Anc. Charters, 337.

(*y*) Hist. Library, ch. viii.

(*z*) Simon's Essay on Irish Coins, pl. i., ii., iii.; Harris's Ware, i., 206; Ledwich's Antiq., 124, 316. By comparing the texts of those authorities with their plates of coin, it is perfectly clear that the Ostmen kings were the first coiners in Ireland. The Irish reguli of the eleventh century, however, did coin some pieces of silver with inscriptions in the *Irish* character and language, as we have seen. See 2 Collect. Hib., 157. One of those pieces is inscribed "*Re* Morrah; *King* "Morragh." See King Morraugh O'Brien, in Leland's Hist., vol. i., Introd., p. xliii. This on such subjects, to infer that non-appearance and non-existence are the same in argument. Many coins of the Romans, of the English of the Scoto-Saxons, have been found in North-Britain, but none of her Celtic princes. The earliest coins that have yet been discovered of any Scoto-Saxon king, are those of Alexander I., which existed in Lord Pembroke's collection (*a*). They were all of silver, and they were of the same fineness, weight, and fashion, as those of the contemporary coins of England. Those circumstances denote the mint whence the Scottish patterns were taken. The gold coins of the neighbouring kingdoms were not fabricated till much more modern times. The silver coins of Scotland continued the same in weight, value, and denomination, as the mintage of England, till the recent age of David II. (*b*). This fact was

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inscription explains a similar one of William the Lion. The *Re* and *Rei*, William, are in the same manner the *Irish* expressions for king, which some medalists explain from the *Scandinavian* of Snorro!

(*a*) Nummi Ang. et Scot., p. 4, t. 24, which contains "Scotish pennies from Alexander I. to Robert I.;" Ander. Dipl. et Numis., pl. clvii. Scepticism professed his doubts whether the coins of the first Alexander were genuine. But conviction came in at length to the aid of common sense, and established the certainty of truth. An Essay on Coins. Ed. 1789, ii., 97. This conviction, however, never beamed on the writer of the *Numismata Scotiæ*, 1786. He thought it of sufficient importance to establish the coins of William the Lion, about which there had only been the hesitation of self-sufficiency. The authenticity of the coins of David I. has not been seriously questioned. The curious have not yet found any coins of Malcolm IV. The silver pennies of Alexander I. and of David I. are so extremely rare, that a penny of each sells for ten pounds.

(*b*) Ruddiman's Introd. Anders. Dipl., § 59, which states a proclamation of Edward III. in 1355 A.D. for the fact. The coins of Alexander I., David I., William, Alexander II., Alexander III., and of John Baliol, were minted in the proportion of 11 ounces 2 pennyweights pure silver, and of 18 pennyweights of alloy, making 12 ounces or a pound out of one pound weight of silver; so that, during the whole Scoto-Saxon period, a pound weight of silver and a pound of money in account were exactly the same. A pound of silver had great power during that period in purchasing the necessaries of life, and, consequently, the fractional parts of the money pound in account, or the shillings and pence, had a proportional energy in the traffic of necessaries for money. I have seldom seen in any of the Chartularies during those early times the *pound* mentioned as *money of account*. The mark is the highest denomination of account which, indeed, frequently occurs in charters. The earliest notice that I have met with of the money pound is in a grant of Fergus the Earl of Buchan, about the year 1205, which speaks of "viginti *libras* sterlingorum." In a lease from the Abbot of Newbotle to the monks of Holyrood, during the year 1237, the *reddendo* is "quinque marcas *legalium sterlingorum*, et viginti denariorum." Chart., 180. This form of expression, *marcas sterlingorum*, became very familiar in Scotland before the reign of Alexander III. Chart. Kelso, 395. The money which is mentioned in the charters of David I., of Earl Henry, and of Malcolm IV., is *solidos* and *marcas*, or *marcas argenti;* but sterling or *sterlingorum* is never added, as far as I have observed, during the reigns of those early kings. For a profusion of learning on this subject see the *Discourses of the English Antiquaries* during the age of Elizabeth, 1771.

not unknown to Edward I., when he enacted that no coins should pass current in England except the English, Irish, and Scottish (*c*).

From considerations with regard to coins we are naturally led to notices in respect to prices. As there was a very large proportion of metal and a small quantity of alloy in the coins during those times, very few pounds, or shillings, or pennies, would purchase a large quantity of necessaries. From those intimations it is apparent that in estimating all things during those ages we must advert to two points, to the quantity of the precious metals in the coins, and to their power over commodities. To these two circumstances learned men have not always attended in forming their judgments of the past and present prices, and in settling the comparative value of money in distant periods. In fixing a general principle as to the rate of living during the Scoto-Saxon period, they have rather offered conjectures, however, than deduced any useful rule (*cc*).

Celtic Scotland did not enjoy the benefit of measures and weights any more than the convenience of coins. The Gaelic people had not any names for weights and measures, because they had not the things themselves (*d*). The Scoto-Saxon people gradually introduced their accustomed measures and weights from England, as we may learn by comparing the English Chronicles with the Scottish Chartularies. Among an uncommercial people the measures of land would necessarily be the great object. In England we may perceive, both from the mention of her chroniclers, and the discourses of her antiquaries, that those topographical distinctions were naturally divided into indefinite, which were the most ancient; and definite, that were the most modern (*e*). The first were the carucate, the bovate, the hide, the librata, the nummata, and others; the second were the acre, the rood, the perch, the yard, the foot, and others.

In Scotland all those may be traced from the English practice into the Scoto-Saxon charters. The *carucata* is the most ancient, and by far the most

(*c*) 20 Ed. I., Stat. *de Moneta*.

(*cc*) Rud. Introd. to the Diplom., § lxiii., Table iii.; Clarke's Connexion, 157; Whitaker's Manchester, ii., 345. Sir George Shuckburgh Evelyn, indeed, by a scientific induction, has estimated the mean appreciation of money in A.D. 1100 and 1800, as 34 to 562. Transact. of the Royal Society.

(*d*) Kirk is silent on this subject in his Gaelic Vocabulary, which is annexed to Nicolson's Hist. Library. When Macdonald wrote his Gaelic Vocabulary, in 1741, he merely gave the borrowed English terms for weights and measures, as he did not find in his own language any original appellations for those commodious standards. The Scoto-Irish had, indeed, the word *cudthrom*, or *chudreme*, or *cudrim* for a *weight* in general. Shaw's Dict.

(*e*) See the curious Discourses of the eminent Antiquaries, i., 39-43-44-106-197.

frequent, of any of those topographical distinctions (*f*). There were *bovates*, or *oxgangs*, and *libratas*, which are said to have contained four *bovates* (*g*). The *oxgate*, or *oxgang*, seems to have been the same local denomination as the *bovate*, under a different name, though it does not appear so early nor so often (*h*). The *librata* terre occurs but rarely in the Chartularies. David I. granted to the monastery of Kelso, the lands of Traverlen in exchange for decem *libratarum* terre in Hardingsthorn (*i*). The *nummata* terre is said by Cowel to have been equal to an *acre*, and this intimation, from which we may learn the nature of the thing, Spelman seems to confirm. The *nummata* terre appears chiefly in the west of Scotland, in Ayr, and Argyle, and perhaps in

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(*f*) The *Inquisitio* of Earl David found that the Church of Glasgow was entitled to "una "*carucata*" in Peebles, "una *carucata*" in Kenayrd, "una *carucata*" in Merebotle. Chart. Glasg. Alexander I. granted to Scone parcels of land in ten different places by the denomination of *carucata*. Chart. Scone. William granted to Aberbrothock "una *carucata*" at Inverness. The grants of the *carucata* are very numerous in all the chartularies from the earliest times; and see the Borough Laws, ch. 52, 74, 119, 32: and Chamberlayn Ayr, ch. 30, in Skene. For the *carucata*, see Cowel in vo.; Ken. Par. Antiq. Glos.; Kelham's Domesday, 169. A *carucata*, from *caruca*, as much land as could be tilled by one plough in one year. Twelve carucates made one *hyde*, which, however, never appears in the Scottish Chartularies. The *caruca* is mentioned in the charters of Edgar, "de unaque *caruca* dimidiam marcam argenti monachis "persolvant." Diplom. Scotiæ, pl. vi.

(*g*) Burn's Westmoreland, Glos.; Cowel, in vo. *bovata*. David I. granted to the monastery of Kelso "duas *bovates* terre juxta Prestesbridge in territorio de Sprouston, in excambio duarum *bovatarum* terre, in Berewyc." Chart. Kelso, 372. David. I. granted to the monastery of Holyrood, "Crostorfin cum duabus *bovatas* terre et sex *acris*, et illa capella de libertune, cum duabus "*bovatas* terre." Maitl. Edin., 144. Malcolm IV. granted to the monastery of Kelso, "duas "*bovatas* terre quas dedi eas in excambio duarum *bovataram*, quas mihi accommodaverunt monachi." Chart. Kelso. William, the son of Patrick, granted to the same monastery, "duas *bovatas* terre "de dominio meo in Whyteside." Ib., 75. There was granted to the same monastery, "unam *bovatam* terre in Molle." Id., 155, 161. There were several other grants of bovates of land to the same monastery. Ib., 214, 510. The bovate appears pretty frequently in the Chartularies as a subordinate division to the carucate.

(*h*) See Cowel, in vo. *oxgang*, and Spelman. Alan de Sartin resigned to the monastery of Kelso two *oxgates* of land in Middleham. Chart. Kelso, 350. Roger de Auldton granted to the same monastery, "duas *bovatas* terre," in the manor of Heton. Ib., 510. There was a long controversy between the monastery of Cambuskenneth and John Keir about four *oxgates* or bovates of land in Dunipace. Chart. Cambusken., 92-6. An act of sederunt, in 1585, fixed the oxgate at 13 acres; yet the extent of them remained in some places very unequal. Some of the oxgates in the lordship of Strathbogie are not six acres, while others are above nineteen acres. Stat. Acc., xix., 290. David I. also granted to the canons of Jedburgh the town and lands of Rule, "in escambium decem *libratarum* terræ," which they had in Hardingsthorn.

(*i*) Chart. Kelso; MS. Monast. Scotiæ, 29.

Galloway (*ii*). The *denariata* terre, as we may learn from Cowel and Spelman, are of a similar nature with the *librata;* and like it, seems to have also existed chiefly in the western districts of Scotland (*k*). The husband-land appears but very seldom in the Chartularies. Alexander Purvays of Ercildon granted to the monastery of Dryburgh, with the consent of his lord, Patrick Earl of March, one messuage "cum terra unius *husbandi*," within his territory of Ercildon (*l*). Skene for once supplies the silence of Cowel in telling the obvious meaning of the *husband-land*. A *cultura* terre sometimes appears. Nicolas de Costentin granted to the monastery of Paisley "unam *culturam* de "terræ mea de Inverwick (*m*)." A *costera* (*n*) terre, and also an *unciata* terræ (*o*) occur in those days of various practice and unusual custom.

The definite measures of land were the acre, the rood, the perch, the foot, and others. As the *acre* appeared often in Domesday-book, so it occurs frequently in the earliest charters of the Scottish kings (*g*). *Jugera* terre may be

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(*ii*) King William granted to the borough of Ayr "quinque *nummatas* terre," by the foundation charter. In 1240, Eugenius Miles granted to the Bishop of Argyle "decem et quatuor *nummatas* terre in Lismore." MS. Monast. Scotiæ, 64. Duncan, the son of Ferchard, and Laumanus filius Malcolmi, granted to the monastery of Paisley "illam *nummatam* terre de Kilma, "upon Lochgilp," and also "tres dimidias *nummatas* terre apud Kilmun." Chart. Paisley, 338. In 1270, Engus, the son of Duncan, confirmed the possession of those *nummatas* terre. Ib., 339. In 1295, Malcolm, the son and heir of Lauman, granted to the monks of Paisley "medietatem "*nummatæ* terre," which belonged to the church of Kilmun. Ib., 347.

(*k*) In 1236, Alexander II. granted to the monastery of Melrose the lake of Dunscore, in Nithsdale, "et illam *denariatam* terræ," which appertained to the same lake. Chart. Melrose, 106. Roderick, the son of Reginald, the lord of Kintyre, granted to the church of St. John "tres "*denariatas* terre," and duas *denariatas* terræ to the church of St. Mary, both in Kintyre. MS. Monast. Scotiæ, 63. These grants were before the year 1240. In 1304, Eugenius de Ergadia granted to the bishop of Ergadia "quinque *denariatas* terre cum dimidia sive *nominatas* terre in "insula de Lismore." Ib., 64. David II. granted to Malcolm M‘Lode two parts of the tenement of Glenelg, viz., "Octo Davatas et quinque *denariatas* terræ." Charters in the Paper Office, 89.

(*l*) Chart. Dryburgh, 195. (*m*) Chart. Paisley, 19. See *Cultura,* in Cowel.

(*n*) In 1359, William, the Bishop of St. Andrews, confirmed to the monastery of Haddington, "una "*costera* terræ cum pertinentibus in territorio de Stonypeth," in East Lothian, of the gift of Robert de Vetereponte. Trans. Antiq. Soc. Edin., i., 110. See *Costera,* in Cowel and Spelman, in the sense of a coast. In Skinner and Ash *coster* signifies a *head.*

(*o*) In 1344, David II. granted to Reginald, the son of Roderic de Insulis, "Octo *unciatas* terræ," de Garw Morwarne. Chart. in the Paper Office, 97. See Cowel in vo. *uncia,* terræ: he says it often occurs in the charters of the British kings.

(*g*) Kelham's Domesday, 152. The *Aker, Akur, Ager, Æcer,* signified, in the Teutonic languages, merely a field, an arable field, as we see in Andreas, Ihre, Torfæus, Wachter, and Somner. The *acre* came afterwards to signify a definite measure of land. See Cowel in vo. and Kennet's found in the Scottish charters (*h*); but the *jugera* was merely the Latin translation of the English acre. The *rood* of land appears more early and more frequently; it was chiefly confined to towns, and it became a well known measurement in the borough tenements during modern times. David I. gave to the monastery of Dryburgh three *rudes* of land with a manor in his burgh of Crail (*i*). From Cowel, we may learn that the *rod* or *rood* of land is nearly allied to the *virgate*, which may be traced in the Scottish chartularies. Earl David conferred on the monastery of Selkirk six *virgatas* and a half of land near the bridge of Norhamtun (*k*). The *perticate* occurs oftener than the virgate, and it was a temporary denomination of small parcels of land near towns in the south-eastern shires of North-Britain (*l*). Of the same nature with the *perticate* is the piece of land which may be met with in the Scottish chartularies during those days of various usages (*m*).

Par. Antiq. in vo. *Acra*. When Earl David founded the monastery of Selkirk he gave to it one carucate, "et decem *acras*," in the territory of Sprouston. Chart. Kelso. David I. gave to the monastery of Kelso one *carucate* of land, "et decem *acras* et *maisuras* carucate pertinentes, et tres "*acras* de prato, and also xxx *acras* terræ de territorio Lillescliff, &c. Id. David granted to the monastery of Cambuskenneth the church of Clackmannan, "cum quadraginta *acris* terre." Chart. Cambusken., 61. Malcolm IV. granted to the monastery of Jedburgh one toft, "et septem *acras*." MS. Monast. Scotiæ, 29. In the time of Joceline, the Bishop of Glasgow, there were conferred on the same monastery "octo *acras* in territorio de Hotun." Chart. Glasg., 285. In a charter to the monks of Arbroath, King William granted, "illas tredecem *acras* terre juxte eadem ecclesiam." Dug. Monast., ii., 1053.

(*h*) Malcolm IV. granted to the monks of Dunfermline "viginti tria jugera terre," and a certain field near Dunfermline. Chart. Dunfermline.

(*i*) Chart. Dryburgh. William, the son of Patrick, granted to the monastery of Kelso, in Greenlaw, five acres of land, "et unam *rodam*," near Cauchesterlaw. Chart. Kelso, 77. Richard Scot, the son of Anselm de Moll, confirmed to the same monastery eight acres and a *rood* of arable land in Moll. Ib., 162-6. In 1505, Robert, the Abbot of Paisley, granted a tenement in Glasgow, containing "unam *rodam* terre burgalis, viz., *sex ulnas* terre, in fronte anteriori." Chart. Paisley, 254.

(*k*) Chart. Kelso. In 1457 John, the Abbot of Lindores, confirmed to the burgesses of Newburgh their several rights and privileges, rendering yearly for the same out of the borough-firms sixpence "monete *currentis*, pro *virgata*, seu perticata terre." Chart. Lindores. See Skene in vo. *Zard*.

(*l*) Gaufrid, the son of Waldeve of Lillesclive, granted to the monastery of Melrose thirteen acres and half a *perticate* of arable land in Wiltun. Chart. Melrose, 20. Roger, the son of Bernard, granted to the same monastery thirteen acres of land and one *perticate* in Farningdun. Ib., 48. In 1271 Adam, the son of Duncan, granted to the preaching friars of Aberdeen four *perticates* of land near Aberdeen towards the *wind*-mill. Sir L. Stewart's Col., 48.

(*m*) Alan, the Abbot of Kelso, granted to Cuthbert Knightson, a burgess of Edinburgh, "totam "illam *petiam* terre," with the pertinents in the barony of Dodingston. Chart. Kelso, 491; and see Cowel, Spelman, Dufresne, and Ken. Par. Antiq., in vo. *Pecia*.

Those several measurements of land which were all copied from the previous practice of England by the kings, nobles, and prelates, who from habit knew that practice, were all introduced with the Saxon polity. During Celtic times the *Davoch* was the usual division of land in proper Scotland, and like many other Celtic terms and usages, the Davoch has been retained throughout many succeeding ages (*n*). In several districts of Galloway, of Perth, Forfar, Aberdeen, Banff, Inverness, Ross, Sutherland, the *davoch* appears to have supplied the place of the *carucate* (*o*). The *davoch* was nearly of the same import as the *carucate*, and comprehended *eight* oxgang. The *bovate* or oxgang was probably a subdivision of each : it certainly was a subdivision of the davoch (*p*).

In various districts of North-Britain there also existed topographical divisions of lands, which seem to have arisen from the *ancient extent* whenever it may have been made ; such as the mark and half-mark, the pound, the shilling, the penny, the half-penny, and the farthing lands.

We have seen none of those petty divisions of lands, according to the money of account, within the south-eastern shires where the Anglo-Saxons early settled, and the Scoto-Saxons afterwards introduced a new policy ; and those divisions of mark lands, half mark lands, shilling lands, penny lands, half-penny lands, and farthing lands, all lie in the countries in the west and north, which were inhabited by the Celtic people at the epoch of the old extent.

(*n*) Before the year 1218, Dovenald, the Abbot of Brechin, granted to the monastery of Arbroath "illa *Davoch*," which was called Ballegillegrand. Chart. Aberbroth., 104. In 1234 Alexander II. granted to the same monastery the land of Des'uen, which is two *davoch* ; of Carinbegyn, which is one *davoch* ; of Lochkerry and Tullikarry, which are one *davoch* ; of Breckerreth, which is half a *davoch* ; and of Tucht, which is a quarter of a *davoch*. Ib., 140. Allan Hostiarius granted to the monastery of Cupar "duas *davatas* terre," in his territory of Lentrathen, viz., Clentolach and Balcassay. Chart. Cupar, 54. In 1342 William, the son of Hugh, Earl of Ross, granted to Reginald, the son of Roderick of the Isles, "decem *davatas* terre de Kennetale, in Ergadie boreali." Chart. in Pap. Off. David II. granted to Malcolm, the son of Turmode Maclode, "octo *davatas* et quinque *denariatas* terre," with the pertinents, in Inverness-shire. Id. David II. granted to Torkyle Maclode "quatuor *davatas* terre de Assint." Id.

(*o*) Robertson's Index ; Stat. Acco., xi., 427.

(*p*) *Damh*, which is pronounced *dav* in the Gaelic, signifies an *ox*, and *ochd* signifies *eight* ; hence the *dav-och* means eight oxgang : eight oxen were formerly the usual number assigned to one plough. The large parish of Assynt in Sutherland is divided into four *davochs*, and every *davoch* contains eight *oxgates*. Stat. Acco., xvi., 184-5. The parish of Kirkmichael in Banffshire is divided into ten *davochs*. Ib., xii., 427. The lordship of Strathbogie comprehended 48 davochs of land, and these were extended beyond the original meaning to 32 oxgates in each. Stat. Acco., xix., 290. The Regiam Majestatem, indeed, extended the davoch to *four ploughs*, each drawn by eight oxen.

From these intimations it is apparent that money was dear, and that land was cheap, during ages of disturbance rather than periods of industry.

Orkney and Shetland derived their measures of land with their names from a quite different source, which is altogether analogous to the Scandinavian lineage of the original settlers; and the universal divisions were denominated from the *merk*, which seems to have formed the basis of all their measures and weights.

Of the mode of estimating in ancient times the rude produce of the land, it is now time to inquire. In 1296 the Abbot of Dundrennan speaks of a *sack* of wool in his petition to Parliament (*q*). The Abbot of Melrose also mentions to Parliament in 1303, his *lasts* of skins (*r*). The *thrave* was the common measure of corn in the field as early as the reign of David I., who granted that the monastery of Scone should receive as conveth from each plough land, "decem *travas* avene," with other rude produce (*s*). This *term* was derived probably from the Saxon *threaf*, a handful, a bundle; and the Saxons may themselves have taken their *threaf* from the British *drev*, a bundle or tye. The *thrave* comprehended two shocks or stooks, which themselves consisted of twenty-four sheaves (*t*).

Of a similar name was the *skep* of meal, which appears very early in the chartularies, and seems to have been borrowed from the English practice. It is merely the Saxon *scyp* of Somner, signifying a part, a portion, in general

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(*q*) Rolls Parl., ii., 471. The Abbot of Melrose also speaks of *sacks* of wool in his petition to Parliament in 1303. Ib., 473. The usual mode, then, of packing and selling wool during those times in the south of Scotland was by the *sack*. In England, whence this denomination was derived, the *sack* of wool contained twenty-six stone; the serplar of wood or *pocket* was half a sack, a sack eighty tod, a tod was two stones, and a stone was 14 lb. Fleta, book ii., ch. 12. The statute of David II. which was made at Perth in 1365 mentions the *sack* of wool, on which a custom of one penny was to be collected. MS. Paper-Office.

(*r*) Rolls Parl., ii., 473. A *last* signified a burden in general, from the Saxon *Hlæstan*, and thence came to be applied as a measure or weight, and a *last* of hides or skins contained twelve dozen. 1 James, ch. xxxiii.

(*s*) Chart. Scone, 16. David Oliphard granted to the hospital of Soltre "unam *thravam* de "blado" for every plough in his demesne. Chart. Soltre, 16. In 1271 an *inquest* from three neighbouring manors found that the hospital had a right to this *thrave* of corn. Ib., 17. Thomas de Haya granted to the same hospital a *thrave* of corn in autumn from each plough in his land south of the Forth. Ib., 53. In 1228 Alexander II. granted to the same hospital "unam "*travam* bladi," yearly from every plough in his demesne on the southern side of the Scottish sea. Ib., 41.

(*t*) For the Saxon *threaf* see Somner, and for the British *drev* see Owen's Dict.; dreva signifies the number 24, and *dreva-o-yd* means twenty-four sheaves of corn or a *thrave*. The (*d*) of the British was early converted into the (ð) of the Saxons.

though custom has sometimes reduced it to a certainty (*u*). Nearly allied to the *skep* was the *chalder*. This, as a measure of grain, salt, and other articles of domestic commerce, was probably derived from the English chaldern or *chaldre*, as it is written in the Patent Roll of the 10th of Richard II. The *cheldra* appears frequently in the charters of David I., Malcolm IV., and William. David I. granted to the monastery of Holyrood eight *chalders* of barley and eight *chalders* of meal (*x*). The contents of the chalder were probably changed during the reign of James I., for James II., by a charter in 1459, converted a pension which the monastery of Cambuskenneth had from the lands of Bothkennar in Stirlingshire, of seven chalders of grain, *antiquo mensure*, into five chalders, *mensure consueta* (*y*). Whether the *boll* were a measure of as early use as the *chalder* is somewhat doubtful. The boll certainly appears in the assize of William, whereby he fixed "the multure to be paid by ane free-"man at the sixteenth veshel; and a firlot out of twenty *bolls* as knave-"ship (*z*)." The English seem to have used the *boll* as a measure in ancient times (*a*). From them the Scots appear to have used the same measure. The name is probably from the Anglo-Saxon *bolla*, vas (*b*). Yet the British *bola* signifies a basket. *Bwl* means any round body; and hence *bwlan* came to signify any round vessel which was made of straw to hold corn (*c*). The Irish

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(*u*) Eustacius of Sticcenil confirmed to the hospital of Soltre the donation of Nicolas of Sticcenel, viz., "duas *sceppas* farine avene," to be yearly received from his granary at Lyda. Chart. Soltre, 46. In a grant of Michael, prior of Gisburne, to Walter the Bishop of Glasgow, of several churches in Annandale, with the tithes of corn, &c., he excepted "quatuor *sceppas* farine" from every rector of each of the four churches of Cumbretres, Gretenhou, Renpatric, and Kirkpatrick. Chart. Glasg., 147. In 1223 there was an agreement between the said bishop and prior on the same subject, wherein it was stipulated that the "quatuor *skeppis* farine" should be paid yearly by each of the four rectors at a certain competent place. Ib., 152. In a survey of the forest of Inglewood in 1619, a *skep* was defined to contain twelve bushels. Burn's Cumberland, Gloss.; Kennet's Par. Antiq., Glos.; and see *sceap* and *sceppa* in Cowel and Dufresne.

(*x*) Charter in Mait. Edin., 144. David I. granted to the monastery of Kelso "xx *celdras* inter "farinam et frumentum" from the mills of Roxburgh, and "xii *celdras* de brasio" from the mill of Edenham, yearly. Chart. Kelso. In 1172 the Abbot of Paisley appears to have had a right to two *chalders* of *salt* yearly from Kalentyr. Chron. Paisley.

(*y*) Chart. Cambus., 49. The legal chalder at present contains sixteen bolls, Linlithgow measure, which are equal to ninety-six bushels English standard measure.

(*z*) Stat. Wm., ch. ix., § 2. (*a*) Ray; Mortimer.

(*b*) The measure for grain seems to have undergone some change at the commencement of the reign of William the Lion, for he granted to the monks of Kelso three carucates of land in Edenham in exchange for twenty chalders of wheat and flour, "de illa mensura que fuit tempore regis David avi "mei," which they received from the mill of Roxburgh. Chart. Kelso, 14.

(*c*) Owen's Dict.

bolla is a bowl or goblet (*d*). The *boll* of whaty wheat was mentioned prophetically by Thomas of Ercildon before the year 1298 (*e*). The *firlot*, which contains four pecks or a bushel and a half of English standard measure, was probably derived from the Saxon *Feower-lot*. It was recognized, as we have seen, by the assize of William, yet seems to have been too insignificant to appear often in the chartularies. In 1338, Sir William of Levingston granted permission, however, to the tenants of the Abbot of Newbotle residing in Easter Crags of Gorgie, to grind their corn at his mill of Gorgie, paying to the miller "unam *firlotam* de *celdra* for every accommodation (*f*). The *peck* which contains four *lippies*, owes its name to the Saxon *pocca*, as the lippie derives its appellation from the Saxon *leap*, a basket, such a *maund* as carries the seed of the sower (*g*).

After this full exposition I cannot concur with the late Lord Swinton nor with James I. of Scotland, who was an excellent poet, but an indifferent antiquary, in supposing that David I. gave his people among other benefits, a systematic ordinance on weights and measures (*h*). Both his Majesty, and his Lordship who followed him like other Scottish theorists, confounded David I. with David II. The weights and measures were originally introduced by *use and wont*, and they were all derived from the previous practice of England, except one or two commercial measures (*i*). Some Scotch writers indeed

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(*d*) O'Brien, and Shaw's Dict. Johnson derives the English *bowl* from the Welsh *buelin;* he should have said *bwl.*

(*e*) Bernard of Hawden granted to the hospital of Soltre "quatuor *bollas*" of meal to be received of him annually at the feast of St. Nicholas in Hawden. Chart. Solt., 28. Richard, the son of Michael of Payston, granted to the same hospital "quatuor *bollas*" of good meal, to be received of him at Payston. Ib., 29. William de Moray granted to the same hospital "quatuor *bollas*" of oatmeal to be received yearly of his farms of Bothville. Ib., 30. Hugh of Bigger, the son of Robert, the son of Waldeve, granting some tithes to the monastery of Lesmahagow, excepted "viginti *bollas*" of oatmeal which the monks engaged to pay yearly to the chaplain officiating in the chapel of St. Brigid at Kyp. Chart. Kelso, 185. The *boll* contains four firlots, or six bushels of English standard measure. See *Bolla* in Dufresne.

(*f*) Chart. Newbotle, 80. See *firlot* in Cowel, Spelman, and Dufresne.

(*g*) See Kennet's Par. Antiq. Glos., in vo. *Seedcod;* Somner in vo. *Leap;* Spelman and Dufresne in vo. *Lepa.* By the Scottish Act of Parliament in 1618, the standards of dry measure were committed to the magistrates of Linlithgow, and those of liquid measure to the magistrates of Stirling.

(*h*) The Borough Laws, chapter 52, provided, indeed, that "ane burges may have in his house ane "measure for his cornes, ane elnwand, ane stave, ane pound to wey."

(*i*) See Sir George Mackenzie's Observ. on the Stat., p. 118-22, for his remarks "on the founda-"tion of weights and measures"; Hunter's *Treatise on Weights, Mets, and Measures,* Edinb., 1600; Lord Swinton's *Proposals for Uniformity of Weights and Measures,* by *executing the present* suppose that the *trone* weight was indigenous in Scotland; but they seem not to have known that Fleta treats of *trone* as a particular kind of English weight during the reign of Edward I. The *serpleth*, which was probably derived from the French *sarplier*, a sarpcloth or packing cloth, and which contained four-score stone, was a term applied to foreign rather than domestic traffic. The Scottish merchants introduced what is called the Dutch weights, from their early intercourse with the Netherlands. The *lagena* or flagon was an ancient measure of wine, oil, and ale, which was also spoken of by Fleta, and was well known in his age within the monasteries of North-Britain (*k*).

The useful coincidence of having an uniformity in the common standard of dealings within the same island, was delayed by the long wars of the Edwards and Bruces. The Act of Parliament which united the two kingdoms, and which provided that the English weights and measures should be the stanards for the united kingdom, merely restored the ancient rules of general practice (*l*).

The Orkney and Shetland Islands have, however, used at all times the weights and measures of Norway (*m*). The first settlers brought those weights and measures from their original country (*n*). This fact intimates that the Gothic people of the Orkney and Shetland Isles, are a very different race from the Gothic inhabitants of Scotland, who came from South-Britain. The Norwegian weights and measures have continued to be used in Orkney and Shetland, notwithstanding the Act of Union; so attached are people to their practices (*o*).

Of commercial circulation and the balance of trade, it is in vain to treat during ages when neither were known (*p*). However the beam may have turned, it is certain that Scotland greatly flourished during the Scoto-Saxon

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Laws; and see also the late Lord Privy Seal, Ja. Stuart M'Kenzie's Comparison of the English and Scottish Weights and Measures.

(*k*) See Cowel, Dufresne, and Skinner, in vo. *Lagen;* and Kennet's Par. Antiq. Glos. in vo. *Lagæna.* In the time of Robert I. it was found by an inquest that the monks of Restennet were in use to receive "*duas lagenas*" of the very best ale, every time that the king came to their neighbouring town of Forfar, and every day that he remained there, during the reign of Alexander III.:

> "When wes sons of ale, and brede;
> "Of wyne, and wax, of gamin, and gle."

(*l*) See An., ch. viii., art. 18.

(*m*) They consist of *Merks, Setteens*, or *Lyspunds*, and *Meils.* Swinton on Weights and Measures, 104-5. (*n*) James Mackenzie's Grievances of Orkney, 14-21. (*o*) Id.

(*p*) In 1253 one merk was paid for the expense and risk of conveying twenty merks from Kingussie, in Badenoch, to Berwick. Chart. Moray, fo. 22.

period. Before the demise of Alexander III., she had acquired all that constitutes wealth, and had obtained a high degree of prosperity. The long wars which followed that event, either for the succession of her crown or for the establishment of her independence, wasted that opulence, arrested that prosperity, and entailed on Scotland in the place of both lasting penury (*q*).

(*q*) We have already seen how the abbeys and castles were destroyed by the ravages of war: the chartularies speak of religious houses, whereof *the war had not left one stone standing on another.* But it is from an examination of those surveys of the lands of Scotland, which have been called in her policy the *Old* Extent, during the Scoto-Saxon period, and the *New Extent* of 1366, that the amount of her ruin can be most distinctly estimated. The Manuscript in the Paper-Office, that has been frequently quoted, has happily preserved the ample detail of the rents and profits which accrued to the crown from the several shires of Scotland, as they were stated in an act of Parliament, and which are as follows:

	The Old Extent.			The New Extent.		
	£	*s.*	*d.*	£	*s.*	*d.*
Berwick, - - - - - - -	622	2	4	372	17	3
Roxburgh, - - - - - -	1,133	15	0	523	17	0
Selkirk, - - - - - - -	99	9	10	80	18	6
Peebles, - - - - - - -	1,274	18	6	863	13	4
Edinburgh, with Haddington and Linlithgow, - -	4,029	16	10	3,030	12	9
Lanark, - - - - - - -	4,052	9	0	1,755	19	8
Renfrew, - - - - - - -				535	9	8
Ayr, - - - - - - -	3,358	19	10	1,396	16	2
Dumfries, - - - - - - -	2,666	13	4	882	15	4
Wigtown, - - - - - -	1,235	3	4	195	0	2
Stirling, - - - - - - -	1,749	19	4	687	3	10
Dumbarton, - - - - - -	1,442	9	6	96	9	6
The Total of the Southern Shires, -	21,665	16	10	10,421	13	2
Clackmannan, - - - - - -	331	0	8	243	14	8
Kinross, - - - - - - -	65	0	0	38	14	8
Fife, - - - - - - -	3.465	13	4	2,555	0	0
Perth, - - - - - - -	6,192	2	6	3,087	1	7
Forfar, - - - - - - -	3,370	6	8	2,240	6	8
Kincardine, - - - - - -	1,088	10	8	722	0	0
Aberdeen, - - - - - -	4,448	6	0	2,588	5	2
Banff, - - - - - - -	1,510	6	0	128	16	8
Inverness, - - - - - - -	3,164	11	8	1,080	11	9
The Total of the Northern Shires, - -	23,635	17	6	12,684	11	2

CHAP. VII.

A Supplemental View of Subsequent Times.

THIS Supplemental View, comprehending the most prominent transactions of subsequent times, will of course extend to almost five centuries of distinguished events. It will naturally resolve itself into the following divisions :—I.—The *Brucean* period, which began with the accession of Robert I. in 1306, and ended with the demise of David II. in 1371, only comprehends two busy reigns. II. The *Stewartine* period, as it commenced with a new dynasty in 1371, and extends to the dawn of *the Reformation* in 1558, will be found to comprehend the unimportant reigns of eight princes. III. From *the epoch* of *the Reformation*, five-and-forty years of civil contest, and the feeble misrule of a corrupt people, will carry us forward to the accession of King James in 1603, when the crown of Scotland and of England were united by the voice of policy and of right. IV. Little more than the effluxion of a wretched century, comprehending civil wars, domestic conflicts, and a memorable revolution, will conduct us to the necessary union of those two congenerous nations. V. And another period of almost equal length will convey the reader of this subsequent history through great events and prosperous times to the Union of Great Britain with Ireland.

I. The reign of Robert Bruce is marked by great efforts, and occasioned mighty changes both in property and in power ; yet is it treated by historians as if it had been a period of romantic adventures rather than an age of uncommon revolutions. However few and unimportant were his first supporters when he set out for Scone, he was crowned with the applause of an indignant people. His successes, when he began to try his valour and his skill against such gallant soldiers as the English, were not equal either to his expectations or designs. It was the battle of Bannockburn on the 24th of June 1314, which decided the fate of Bruce, and fixed the independence of Scotland. Recollecting now the miseries of the succession war, Bruce appears as anxious as the nation was willing, to prevent by a parliamentary settlement of the crown the return of such disasters and the reiteration of similar dangers. On the 26th of April 1315, the Parliament which met in the church of Ayr settled the descent of the crown on Edward Bruce, the king's brother, in preference to the king's daughter, Marjory, who was induced by the anxieties of the moment to signify her assent to this postponement (*a*). Edward immediately set out from Ayr to enjoy, meanwhile, the unstable throne of Ireland. At Dundalk in 1318, he met the fate which his rashness merited. Marjory, the daughter of the first marriage of Bruce, was meantime given in marriage to Walter, the Steward of Scotland; but the mother of the Stewartine dynasty died in 1316, leaving an only child, Robert, who was born on the 2nd of March 1315-16, and was destined to ascend the throne of his grandfather, the great restorer of the monarchy. Walter Stewart, the gallant husband of Marjory died in 1326. The death of two such important persons as the king's brother and daughter, the legal heirs of the crown, dictated a new settlement of the government by the Parliament at Scone in December 1318 (*b*). The war with England in the meanwhile continued with augmented animosity, amidst domestic treason. The pressure of circumstances induced the Parliament of April 1320, to write an epistolary manifesto to the Pope, which avowed their determination not to submit to Edward in such energetic language, as hath made a great impression in every age (*c*). After all those entails of the crown an heir was born to the king on the 5th of March 1323-4; and in 1326 the Parliament and the people swore fealty to David, the infant son of Bruce, whom failing, they equally engaged to acknowledge the title of Robert Stewart, the king's grandson. In this year the prudence

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(*a*) See the act in Fordun, lib. xii., c. 24; Anderson's Independence, App. No. 24; Robertson's Index, App. No. 7; and see Lord Hailes's Remarks on Abercrombie, with regard to this important subject: intimating the probability that, in those times, the pretensions of the uncle were preferable to the right of the daughter. Ann., ii., 56. This was undoubtedly true under the Gaelic constitution. See the *Genealogical Table* facing p. 416.

(*b*) Anderson's Independence, App. No. 5: Robertson's Index, App. No. 9, for this second act of settlement. The crown was now entailed, if the king should die without issue male, on Robert Stewart, the king's grandson, and the son of her who had magnanimously consented to the postponement of her particular rights for the public good.

(*c*) This memorable document is engraved in the Diplomata Scotiæ, pl. 51. The clergy did not sign this epistle; but they assented to its magnanimous principles, and adopted its manly language. Fordun, lib. xiii., c. 23. They had already, in 1309, issued an unanimous declaration of equal energy and effect. Anderson's Independence, App. No. 14.

of Bruce induced him to send Randolph ambassador to France, who concluded a treaty, offensive and defensive, with Charles the Fourth (*d*). After many conflicts of various success, the rising vigour of the one country and the universal debility of the other, induced the English government to acknowledge the kingship of Bruce, and to admit the independence of the nation. This acknowledgement was made by the Parliament at York, on the 1st of March 1327-8 (*e*). This previous act was followed by the treaty of Northampton, on the 17th of March 1327-8, which settled the peace between Scotland and England as two independent states; and which was also confirmed by Parliament, who again acknowledged the sovereignty of Scotland according to its limits at the demise of Alexander III. (*f*). In pursuance of this treaty and those confirmations, the infant prince of Scotland married Johanna, the daughter of Edward II. Robert Bruce had now by his own efforts, the firmness of the clergy, and the perseverance of his baronage, restored the Scottish monarchy; and he died of a lingering disorder, the natural consequence of his privations, his hazards, and his struggles, at the premature age of 55, on the 7th of June 1329.

The revolution which took place when the Saxon dynasty of kings ascended the Scottish throne, was scarcely greater than the changes that happened under

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(*d*) Rymer's second letter to Bishop Nicolson, 13. The Abbe Bevy shews that this treaty stipulated, in case either king died without issue, the survivor should protect the lawful heir. Histoire de la Noblesse, 471.

(*e*) Rym. Fœd., iv., 337. This transcript of that important act was printed from the chronicle of Lanercost, and is supposed to be the only copy in existence. The fact is, that this interesting document was also recorded in the chartularies of Scotland. In 1415 the Chancellor, in the name of *the three estates* then sitting at Perth, produced a transcript of that document, and prayed that it might be recorded as a memorial of the truth. This curious transaction, with a transcript of the act, is contained in a MS. Collection which appears to have been made by John Corss, the deputy keeper of the records, at Edinburgh, 1739, and which is preserved in my library.

(*f*) The late Lord Hailes could not discover either the original or any transcript of this most important treaty. He was thus obliged to collect the stipulations of it, which he could not accurately adjust from public instruments. Ann., ii., 126-7. There is a transcript of the treaty of Northampton which the English writers were not very studious to discover, in the MS. Collection that the King directed to be transferred from the Paper Office to the Register House of Edinburgh. Robertson's Index, 100-3. We have now seen that Edward III. was empowered by Parliament to treat with Scotland as an independent State; we have also perceived that the subsequent treaty of Northampton was confirmed by Parliament; yet, in opposition to those two acts of Parliament. Edward and his successors continually revived the absurd pretension of the feudal dependence of Scotland till the recent age of Elizabeth, when her ministers, in defiance of those laws, revived the same pretension, with the guilty purpose of affecting the life of Mary Stewart: yet the English queen, who was implicated in that guilt, disclaimed by proclamation any design of arrogating the superiority of Scotland. Anderson's Independence, App., No. 10.

the restorer of the Scottish monarchy. Some of the most eminent families in North-Britain with *the Cumyns* at their head, fell before the fortune of Bruce, and forfeited their all to his offended laws. Many subordinate Barons, who owed fealty to those unfortunate families, rose upon their ruined estates and thereby ceased to be vassals to superior lords. Some of the greatest offices which had been hereditary in those eminent houses, such as the Constable and Pincerna, passed into new families with large possessions, which raised them to unwonted greatness. Several persons of acknowledged worth as well as valiance, by marrying the sisters and supporting the pretentions of Bruce, laid the firm foundations of new and opulent houses. It was the policy of that able prince to encourage those marriages. It is not, perhaps, too much to say that one half of the lands of Scotland, as they had been forfeited, were conferred on new proprietors, who gave a different cast to the population of a mixed people (*g*). It was the fault of Bruce that he sometimes sacrificed his policy to his gratitude. He conferred a principality on his nephew, Sir Thomas Randolph, the Earl of Moray, whose merits, indeed, as a statesman and soldier, were equal to his reward vast as it was (*h*). He conferred on Sir James Douglas, whose merits were also great, most extensive estates in the southern shires, which enabled his descendants, who had less merit and more ambition, to contend for superiority with the less able successors of the royal donor (*i*). Much as the gratitude or munificence of that great prince conferred on those who had fought by his side in many a conflict, he tried to take nothing away from those who were innoxious to law ; yet are we told, in the legend of Boece, that the restorer of the Scottish monarchy, in order to check the growing power of the nobles, summoned them to show by what right they held their lands. They accordingly assembled, and the inquiry being made, they cried out, drawing their swords, "By these we acquired "our lands, and with these we will defend them." Such is the romantic tale of the fabulous Boece ! By the late Lord Hailes it is ridiculed as a fiction (*k*) ; by the late Historiographer Royal, it was embodied into history as a fact (*l*). To *the nobles* to whom Bruce is said to have been so much

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(*g*) See Robertson's Index to the Records during the reign of Robert I. for those forfeitures and grants.

(*h*) See the Charter of Moray ; Robertson's Index, 9.

(*i*) Robertson's Index, 10.

(*k*) Ann., ii., 97.

(*l*) Hist. Scot., i., 8. "It seems to have been a maxim in that age," says the same historian, "that "every leader might claim as his own territory which his sword had won from the enemy ; great "acquisitions were gained by the nobility in that way." This assertion and that maxim are quite unfounded in fact ; there is no example of any man claiming lands in Scotland in that age by right of conquest. There was no other right to lands during the reigns of Bruce and his son except ancient possession and the grant of the king.

indebted, he certainly owed but little (*m*). It was the concurrence and firmness of the church, rather than the efforts of the nobles, who were few in number, to whom Bruce owed his final success.

The Scottish constitution under which the nation had prospered during the Scoto-Saxon period, came down to Bruce, though it was perhaps somewhat shattered in its frame amid the conflicts for the crown. The monarchial part of the government was undoubtedly weakened, though the vigour and valiance of Bruce concealed its defects. Nor did the policy of this great king, when he granted so many lands and conferred such extensive jurisdictions on his warlike adherents, tend to invigorate that debility. Unlike his predecessors, Robert I. seldom found leisure to distribute justice personally to his people; but in addition to the justiciaries and the judges of ancient times, the Parliament was now called in to act *judicially* as the king's council. If we except some instances during the late interregnum, when the English modes were copied, there was no example during the Scoto-Saxon period, much less in Celtic times, of the Parliament performing the function of justiciaries (*n*). This juridical novelty is alone a sufficient proof of the debility of the royal prerogative, which found itself unequal to the due administration of justice, without calling in the

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(*m*) Ib. 47. At the accession of Bruce there were not a dozen Earls in Scotland; and of those three opposed him in arms, and sunk under his prowess. Of all those *nobles* only two, the Earls of Fife and March, were present in the Parliament of Ayr when the succession to the crown was settled, except his nephew, the new created Earl of Moray. Robertson's Index, 7. There were only two Earls, with the exception again of the Earl of Moray, who assisted in Parliament when the second entail of the crown was made in 1318. Ib., 9. None of those Earls appears very forward in battle, during the many conflicts, while the stability of the throne and the independence of the nation were so strenuously fought for. Robert I. created only two Earls, his brother Edward, whom he made Earl of Carrick, and his nephew Randolph, whom he created Earl of Moray; and both those warriors had freely bled before they were belted with the Earl's sword.

(*n*) Robertson's Index, 28. Even in England the word *parliament* is comparatively of a modern date. The word *parliamentum* was not used in that country till the reign of Henry III., who demised in 1272. Blacks. Com., i., 147. Alexander III. was his contemporary. The use of the word *parliament* did not begin in Scotland till the reign of Robert Bruce. Wight on Elections, 6. The chartularies, indeed, attest the common use not only of the word, but the thing, in that reign; but the learned Wight quotes a document, "Litera Atornatus ad Parliamentum," from the chartulary of Kelso, by Patrick the Abbot, which induced that intelligent person to think that the use of the word *parliament* must have been as old as 1258. Ib., App. No. 4. There was, however, a Patrick, Abbot of Kelso, from 1399 to 1406, as we know from Innes's MS. Collections. That *letter of attorney*, appointing delegates to Parliament, has too modern a cast for the period from 1258 to 1260; and the context of the document evinces that it could not be older than 1399 to 1406, the age of the second Patrick.

legislative power It was in this reign, also, that the enfeebling practice of granting to the baronage *regalities*, which as they acted independent of the king's courts, greatly lessened the executive power of the crown (*o*). Though the constituent members of the Parliament were augmented towards the conclusion of this reign, by the admission of delegates from *the boroughs*, yet the members and dignity of this assembly, were never restored to their former greatness.

The demise of the great restorer of the Scottish monarchy transferred his gory crown to his son David, a child of five years old. Throughout a reign of more than one-and-forty years, the Scottish king was either an infant, or a fugitive, the prisoner, or the instrument of the English monarch. The ambition of Edward III., which was full as insidious as it was insatiable; the claims of the forfeited barons, who were the subjects of England; and the instrumentality of Edward Baliol, who acted as the *pretender* to the Scottish crown; were the genuine causes of the renewment of a war which lasted, with short intermissions, five-and-twenty years. The two great supporters of Bruce's throne soon departed from the bloody stage of national conflicts. Sir James Douglas died in 1330, and Randolph, the Earl of Moray, in 1332 (*p*). The three battles of Dupplin in 1332, of Halidon-hill in 1333, and of Durham in 1346, might seem to have decided the fate of Bruce and of Scotland; yet, such was the resolute spirit which then inspired a hardy people, that men came out from every vale and every hill, and showed by the bravest actions that, while two of them remained, they would not submit to the English king. It was amidst the reiterated hostilities of a lengthened struggle of bloodshed, intrigue, and perfidy, that the Douglases rose pre-eminent in power and in lawlessness, among a warlike baronage. The ambition and the aims of Edward III., as they grasped the two kingdoms of Scotland and of France, were disappointed in all their objects; and he now began to think how to convert the captivity of David II. to the most profitable purpose. A protracted negotiation, which was full of artifice ended during the year 1354, though it was

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(*o*) After so many lands had been conferred on Sir James Douglas, the gratitude of Bruce erected the whole into a *free regalitie*. Robertson's Index, 10. His favour granted to Robert de Keith, the Mareschal, his licence to "to byde from the sheriffs court." Ib., 2. His impolicy conferred on the Abbot of Arbroath a *regalitie* over his lands in Aberdeenshire, like the regalitie that he then enjoyed over his other lands. Chart. Arbroath, 199. His favour to the Earl of Moray conferred on his warlike nephew most princely powers, as we see in the charter of Moray.

(*q*) The prudence of Bruce had induced his Parliament to appoint those two eminent men to be the successive Regents of his son and kingdom. The subsequent appointment of insufficient men to that high trust had well nigh ruined both the king and people.

not completed till the year 1357 (*q*). A ransom for the king of ten thousand marks a year during a long and captious term, placed his country in the degraded condition of a tributary state. Here began a practice on the side of the English government in negotiating with Scotland, which was clearly as illegal as it was certainly impolitic (*r*). The English kings, who thenceforth aimed at the direct dominion of North-Britain, would never consent to make a permanent peace, but would only agree to a truce of short duration. The year 1355 is remarkable for the surrender of the kingdom of Scotland by Edward Baliol to Edward III. (*s*). The two parties to this transaction entailed as far as in them lay on a harassed people, the sad calamities of perpetual war. A few years of insidious intrigue and low amours, occupied the subsequent life of David II. after his releasement from captivity. He employed his latter days, at the hazard of his personal safety, in trying to persuade his Parliament to transfer the entailed crown from his father's grandson to Edward III., his father's foe ; but his Parliament was too firm as well as too resolute, to denude themselves of their rights or to deprive the Stewart of his title. David II. ended his inglorious career on the 22nd of February 1370-1, in the Castle of Edinburgh, after casting many a lingering look to England, in the 47th year of his age and the 42nd of his reign.

Robert Bruce and his posterity are said to have reigned with an authority not inferior to that of its former monarchs (*t*) ; but this position was hazarded without a perfect knowledge of the past, or accurate consideration of the future. The royal prerogative had somewhat declined in the possession of Robert Bruce. The hands of his infantine successor could hardly support the sceptre, which seemed too weighty for the vigorous grasp of his powerful father. The death of the two regents, who had been appointed by the Parliament to an infant king, left the nation without a government, while the sovereign was obliged to seek protection in France. The quick succession of regents during that infelicitous period, necessarily enfeebled a prerogative, which was only exercised by the weak authority of delegated powers. It was in this reign that

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(*q*) Rym. Fœd., v., 793 ; Ib., vi., 46-52.

(*r*) Two English acts of Parliament had acknowledged, as we have seen, the sovereignty of Scotland ; yet the English government, disregarding both those laws, treated the Scots as feudaries. This unwise, not to say illegal, conduct, threw a brave and irascible people into the arms of France.

(*s*) Rym. Fœd., v., 832-6. We have already seen Edward III. purchase the suppositious title of FitzAlan to the Stewartship of Scotland, because the Stewart had a parliamentary right to the Scottish crown.

(*t*) Robertson's Hist. Scot., 73.

the practice of *manrent* began, when the powerful wished for followers and the weak wanted protection (*u*). This circumstance evinces with strong conviction, the debility of government amid the convulsions of those times. Of such a king, it is not likely that he would in his proper person administer justice to his people; yet the form of the ancient government remained, while its energies were no longer left. The Parliament, meantime, continued the practice which had commenced during the late reign, of acting full as much as judges as legislators. We may even see the feeble David giving his grants "in pleno parliamento," as if his prerogative had been unequal to the executive government of the ancient kings. In 1367 commenced a parliamentary practice, which seems not to have been quite constitutional, of appointing a committee of Parliament with the whole power of the legislature, under the pretence of commodiousness (*x*). This practice, however, continued long, and is supposed to have given rise to the anomalous institution of *the Lords of articles* in subsequent ages. The Parliament in this reign gained lasting honours by its firmness. It explicity refused the impolitic solicitations of the king, to place a son of Edward III. in the entail of the crown in the room of *the Stewart*, the grandson of the great Bruce, the son of Marjory Bruce, who had herself merited well of the nation (*y*). The feebleness of David II. required the meeting of many parliaments during this long reign; and their acts would be curious if they were ascertained as records. The *new extent* was certainly settled in 1366 under parliamentary authority; and it attests the deplorable state of Scotland, after an inveterate war of seventy years, with few intermissions. While there was but little change in the state of the ancient peerage, there were very few peers added to the old, during this disastrous reign (*z*). The same enfeebling impolicies of granting regalities in fee and sheriffships for life, which had begun under the father's rule, was continued with greater profusion by the son (*a*). In all those grants and in that impolicy, we see David II. in the act of abdicating a part of his authority, by transferring his prerogative to his barons without any attempt on his part to lessen the power of the nobles (*b*).

(*u*) The first transaction of this sort which I have met with is an indenture between John, Lord of *the Isles*, and John of Lorn, in 1354, to be found among the public archives at Edinburgh.

(*x*) Lord Hailes's An., xi., 261, with the MS. which he quotes.

(*y*) She had been a hostage in England, she had consented to postpone her own right to the crown in order to let in her uncle Edward Bruce for the public good.

(*z*) Malcolm Fleming was created Earl of Wigton in 1342. William Douglas was made Earl of Douglas in 1357. Robertson's Index, 31. John Stewart, the heir of the Stewart, had the revived title of Carrick conferred on him in 1369. Ib., 42; Crawfurd's Peerage, 493, 72.

(*a*) See Robertson's Index during David II.'s reign, for those impolitic grants.

(*b*) This is a very different conclusion from what we may see in Robertson's Hist. Scot., i. 46.

II. Notwithstanding the intrigues of Edward III., and the solicitations of David II., Robert, the Stewart of Scotland, at the ripe age of fifty-five, succeeded to the crown without further opposition under the parliamentary entail of December, 1318 (*c*). All persons acknowledged a title which, as it had been often legalized by constitutional authority, could not possibly be disputed. The very person who is feigned to have pretended a title to the crown, and who was of great importance, hastened to swear allegiance to the legal heir. The Stewart was crowned at Scone on the 26th of March, 1371 (*d*); and recollecting the mischiefs of a doubtful succession, and even of female heirs, he hastened to settle by an Act of Parliament the descent of the crown on his sons successively, and their heirs male (*e*). In his usual administration he seems to have been willing to cultivate amity with England by paying the instalments of the ransom of David II., whereof there still remained unpaid 52,000 merks (*f*); but he appears to have been still more solicitous to renew the *old league* with France, as it was deemed a convenient policy in that age for the weak powers to unite against the strong (*g*). The impolicy of England continued in

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(*c*) Anderson's Independence, App., 25; Robertson's Index, 9. Yet Legend, under the form of history, came out with an assertion that William the Earl of Douglas, "uniting in him-"self the dubious pretensions of Cumyn, and the solid title of Baliol," unexpectedly claimed the crown on the demise of David II. This fiction became a party question, which was pertinaciously debated about the year 1747, at Edinburgh. In 1748, the learned Ruddiman published a *demonstration* that William the Earl of Douglas had neither any relationship of blood nor connection of family with the Cumyns and Baliols: and he might have added that the Earl of Douglas had no alliance of marriage with the Stewarts. When Goodal published his edition of Fordun's Chronicle, he repeated the proofs of Ruddiman, in order to warn the reader against that legend; yet the late "History of Scotland from the accession of the house of Stewart," repeats the same legend in opposition to Ruddiman's proofs and to Goodal's warning. What pretence of title could Douglas have, in the face of so many acts of Parliament which had recognised the Stewart and his heirs! The whole clergy, by an unanimous declaration in 1309, had exploded the title of Baliol, and recognised the right of Bruce and his posterity. Anderson's Independence, App., No. 14. It is incredible that the Parliament could meet at Linlithgow, according to the Legend, to appoint a successor to David II., when every constituent member must have known that a successor had been already appointed by law. The whole story of Douglas's claim is an egregious fable which was scarcely worth the repetition, and which we may hope will never be again repeated!

(*d*) Robertson's Index, App., 13.

(*e*) Ib., 14; Hay's Vindication of Elizabeth More, 115.

(*f*) Robertson's Index, 109.

(*g*) Ib., 3. Rymer's second letter to Bishop Nicolson, which was written to disprove the *pretended old league* with Charlemagne, and to assert the *true old league* by John Baliol, contains a copy of the treaty between Robert II. and Charles the good, dated at Edinburgh, the 28th of October, 1371. MS. Paper Office.

declining to acknowledge the sovereignty of Scotland by treaty, though it had been recognised by several acts of the English Parliament. A thousand inroads on either side, which were of little importance in themselves, only engendered ill-will and enmity between contiguous nations. The battle of Otterburn, which was fought in 1388, was more remarkable for the obstinate valour of the chiefs than for any national result. In the subsequent year the Parliament, which is said to have assembled at Edinburgh, recognised the king's second son Robert, the Earl of Fife and Duke of Albany, as governor of the kingdom during the advanced life of the reigning sovereign. Robert II. died on the 19th of April, 1390, in the 75th year of his age. This prince, the first of the Stewartine dynasty, left many children by two wives, and several concubines (*h*). The numerous brothers and sisters of Robert Bruce brought him a great accession of strength: the issue of Robert II., by dividing power and subdividing property, induced prodigious weakness in his government, and unceasing penury in his revenue (*i*).

There is not a trace of any attempt by Robert II., who seems to have delighted in domestic enjoyments, to limit the power of the nobles, whatever he may have added by his improvident grants to their independence. He appears not to have attempted to raise the royal prerogative from the debasement in which the imprudence and misfortunes of David II. had left it. By con-

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(*h*) See Crawford's Hist. of the Stewart family, 17-20.

(*i*) Robert II., who came of age in 1337, appears to have formed an early connection with Elizabeth More, the daughter of Sir Adam More, by whom he had several children before their marriage. In 1347, at the age of thirty-one, he obtained a Papal dispensation for his marriage with that Lady, whom he espoused in the face of the Church during the year 1349, as Fordun the contemporary historian had truly stated. This dispensation from the Vatican is printed in Andrew Stuart's Gen. Hist. of the Stewarts, 418. This dispensation and subsequent marriage legitimized the previous issue of Robert and Elizabeth, according to the legal notions of that age. The Scottish Parliament of 1371 recognised that principle when the legislature acknowledged John, the eldest son of that marriage, to be the heir of the crown. In 1355, Robert obtained another Papal dispensation for marrying Euphemia, the daughter of the Earl of Ross. Ib., 420. Of those marriages, the most absurd stories were related by the Scottish historians who disregarded the authority of Fordun. Buchanan, who was very capable of deliberate falsehood, boldly asserted that Euphemia was the first wife, and Elizabeth the second spouse of Robert, without caring to what confusion such falsehoods might lead; and party, during the agitations of civil war, entering into the question in respect to the legitimacy of John, the eldest son of Robert II., pertinacity continued to dispute with demonstration. But the publication of those dispensations from the Papal records will probably silence for ever the loquaciousness of calumny, since neither party nor person can hope to gain from maintaining unprofitable fiction.

senting to an act of the Legislature, which appointed his second son the Lieutenant of his kingdom, he seems to have abdicated his own power (*k*).

John, the eldest son of Robert II., succeeded to the throne under the parliamentary entail of the crown, 1371, by the more popular name of Robert III. He had scarcely seized the sceptre in his feebler grasp, when the *wolf of Badenoch* spread devastation through Moray. So mild a prince and so weak a man was not very likely to make any attempt upon the power of others when he could scarcely support his own. In 1398 he created David, his eldest son, Duke of Rothesay, from the royal castle of that name in Bute, an ancient possession of the Stewarts. This prince acted wildly, which was the fashion of the age, and he entered into an unworthy marriage, according to the manners of his father and grandfather. He was assassinated by his uncle, the Duke of Albany, with the concurrence of Archibald, the Earl of Douglas, his brother-in-law (*l*). In his intercourse with England, which continued to make cessations from war rather than treaties of peace, short truces and frequent inroads only embittered the spirits of rival nations. In 1402 the battle of Homildon was fought on the marches, between Douglas and Percy, with the obstinate valiance of personal rivality. The Scottish spears were obliged to yield to the English bows. Such conflicts displayed the bravery of the contiguous people, but they only ended in some short cessation which led to a subsequent inroad (*m*). In the midst of that warfare, the Scottish king on the 10th of December 1404. settled on his son James, the heir of his crown, the whole

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(*l*) He constituted his fourth son, Alexander of Badenoch, Lieutenant from the limits of Moray to the Pentland Frith. Robertson's Index, 118. This person was long known by the name of *the wolf of Badenoch*. Such was his savageness, that he well deserved this title. He seized the Bishop of Moray's lands in Badenoch, and being excommunicated, he in resentment burnt the town of Forres, the choir of the church, and the manse of the archdeacon, in May, 1390; and in the subsequent June he burnt the town of Elgin, the church of St. Giles, the Maison-dieu, and the cathedral, with eighteen houses of the canons. For all this mischief and sacrilege he made some reparation to the church, but he was not hanged! Shaw's Hist. Moray, 276. Robert II. gave to his son David the Earldom of Strathearn, which he erected into a *free regality*, including the four pleas of the crown. Robertson's Index, 95. To John Dunbar and Margery, his wife, the king's daughter, Robert gave the Earldom of Moray, with the four pleas of the crown. Ib., 96. Among other officers, such as sheriffs, coroners, mayors, serjeants, he conferred on Andrew Dempster and his heirs the office of Dempster in Parliament, and in the justiceairs, and in the sheriff court of Forfar. Ib., 180-2.

(*l*) In Lord Hailes's Remarks on the History of Scotland, 278, may be seen a sort of parliamentary remission for that odious deed, in the form of a charter from Robert III., who had still another son, the only hope of his years.

(*m*) See Ridpath's Border History throughout.

Stewarty, as a *free regality* during his life, for an appanage to the prince of Scotland (*n*). He thus denuded himself of the extensive property and influence which belonged hereditarily to the Stewarts. Recollecting the fate of the Duke of Rothesay, he deemed it prudent, however, to send his only son to be educated in France under a friendly prince, who owed him protection from treaty; but during a treacherous truce, the prince was taken on the coast of England, as a convenient prize, on the 30th of March 1405. The aged king, worn out with infirmities and cares and bereft of the only hope of his age, died on the 4th of April 1406, at his Castle of Rothesay, leaving the heir of his crown in the hands of his adversaries, and the administration of his kingdom to the misrule of his ambitious brother, the Duke of Albany. The two first kings of the Stewartine dynasty seem to have acted as barons rather than as kings. Their privacy induced unimportance, and their facility gave rise to crimes (*o*).

Robert III. was scarcely dead when the Parliament recognized the title of the captive prince, and confirmed the regency of the ambitious Albany. The regent amused the Scottish people with fruitless negotiations for the king's release. The English are said to have made some amends for detaining James, by their care of his education; yet was it obviously the policy of the English government from the capture of David in 1346, to obtain the possession of the Scottish king, either by force or fraud. Nothing could be more wretched than the administration of Scotland, while the sovereign was a captive and the governor a regent. The ravages on the borders were the natural consequences of that impolicy, which preferred a precarious truce to a permanent league, with the delusive hope of obtaining the sovereignty, at some moment propitious to ambition. The domestic administration of Albany was not more happy for internal quiet. The year 1411 is memorable for the battle of Harlaw in Aberdeenshire, which was fought for the Earldom of Ross, between Donald, the Lord of the Isles, and the Earl of Mar; the one commanding the Celtic

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(*n*) See the charter in Carmichael's Tracts, 103.

(*o*) Their marriages, concubinage, and their issue, have been already mentioned as the lasting causes of singular debility in the monarchy. The statutes of this reign, as they have been published by Skene, speak of "the misgovernance of the realme, of the great and horrible destructions, ravages, "burnings, and slaughters, that are so commonly done throw all the kinrick." Such were the necessary effects of the feebleness of the sovereignty and the jurisdiction of the baronage. How many *regalities* and *judicial offices* for life were granted by the imprudence or weakness of Robert III., may be seen in Robertson's Index, 127-157. In Sir Robert Gordon's case, claiming the Peerage of Sutherland, App. 29, there is a bond of manrent from James the Earl of Douglas to Robert III., which would be extremely curious if it were genuine.

people of the Hebrides; the other the Saxon inhabitants of Aberdeen and Angus. This domestic conflict for an object, which in other times the law would have decided, was valourously contested till the Saxon steadiness prevailed over the Gaelic ferocity. The Lord of the Isles was obliged at length to make his feigned submissions. There were other internal commotions which were less bloody, that mark however the sad weakness of the established government. After many years of ambitious misrule, the Duke of Albany died at the age of eighty in 1419, and the office of Regent descended to his son Murdach, as if he had been the lawful king from ancient descent. Such then was the anomalous nature of the Scottish government in that wretched age, consisting of a captive king, a feeble regent, an uncontrolled baronage, and a misgoverned people.

The Scots had now, under illustrious leaders, made themselves felt in France; and the Protector, Bedford, adopted the solid policy of setting at liberty their captive king, of enfeebling his government by an enormous ransom, and of engaging his amity by the seductive means of marriage. James I., who has not been celebrated beyond his merits, married the object of his love, Joan, the elegant daughter of the Duchess of Clarence; and on the 19th of April 1424, he returned to his kingdom at the age of thirty, amid the acclamations of a harassed people. This accomplished prince now employed upwards of a dozen years in restoring the government and promoting the interest of his kingdom (*p*). The regent Murdach and his sons and connections, were now made to pay the forfeit of their lives to the offended laws. The Lords of the Hebride Isles and the chieftains of the Highlands, who had been completely lawless under the long regencies of late times, were obliged to submit to regular government. He cultivated amity with England, yet made he an alliance with France, and a commercial treaty with Flanders. But though he delighted in the arts of peace, he was not afraid of the hazards of war. In 1436 he conducted a large army to the English borders; yet amid his vast preparations for hostility, he found that his influence was not equal to his authority, and learning the discontents of his barons, he thought it prudent to dismiss his undisciplined army. James retired to his usual residence at Perth, where he was assassinated by his relation, the Earl of Athol, by Robert Graham, and other conspirators, on the 20th of February 1437. The terrible punishments which were inflicted on the several assassins, attest the popularity of James, and the savageness of the age.

(*p*) See the Black Acts of Parl. throughout.

The laws of this reign, genuine as they are, furnish the most satisfactory state of its domestic economy. Like *Justinian's Codex*, the statutes of various parliaments open with declarations in favour of the church. The first act of James's Parliament renewed the statute of Robert I., "for the honour of God "and the halie kirke." It was observed that this act was made for inducing the clergy to support the king against the regent (*q*.) The act for protecting *the church* was followed by three acts for securing *the state* (*r*). The patience and inactivity of the nobles when they saw the king punish the highest of their order, is not then amazing when we see such statutes made for preserving quiet and enforcing law (*s*). The acts of the first Parliament of James show a systematic purpose of wise statesmen, to establish legislative acts, as the just terror of the strong and as the safest shield of the weak (*t*). It is, perhaps, too narrow a view of the policy of James, to attribute all those salutary measures as so many means to aggrandize the crown and to depress the nobles (*u*). If during eighteen years residence in England, he saw a regular administration of government, wise laws enacted, and a nation flourishing and happy, because all ranks of men were accustomed to follow those rules (*x*) ; it is not too much to suppose from the context of the statute-book, that it was the salutary object of a wise prince, to oblige every order in his kingdom to respect his government and to obey his laws. Amid a thousand regulations for the benefit of his people, two measures were long attended with important effects ; the one produced in 1427 a change in the constitution of Parliament (*y*) ;

(*q*) Sir Geo. Mackenzie's Observ. on the Stat., 1.

(*r*) There was one of those acts "for observing sicker peace within the realm, and prohibiting "private war ;" there was another, "that no man should rebel against the king's person ;" and there was a third, declaring those to be rebels who should disobey the king's command against notorious rebels. Black Acts, ch. ii., iii,, iv.

(*s*) Robertson's Hist. Scot., i., 51.

(*t*) The Black Acts, ch. iv., for enforcing the administration of law and justice. The great and small customs were confirmed to the king. Ib., ch. viii. ; and he was empowered to inquire by inquest of the country what lands and rents belonged to the king's predecessors, David II., Robert II., and Robert III. Ib., ch. ix. This act is supposed to have given just alarm to the nobles. Roberts. Hist. Scot., i., 52. Yet Sir George Mackenzie had observed "that on such inquests the king needs produce "nothing to prove that he is superior, for the king is presumed to be general superior, and is infeft "*jure coronæ* in all the lands of Scotland." In this observation we may see a trait of the municipal law of North-Britain in its earliest form.

(*u*) Robertson's Hist. Scot., i. 48-51.

(*x*) Ib., 49.

(*y*) This was the 101st act of the 7th Parl. of James I., the 112th of the Black Acts, for enabling the Barons and freeholders to appear in Parliament by *commissaries,* while the king was to summon by special precept the bishops, abbots, priors, Dukes, Earls, Lords of Parliament, and Ban-rents.

and the other ameliorated the administration of justice in 1425 (*z*). James appears to have been early ambitious to emulate David I. as the legislator of Scotland (*a*). Happy! had he lived to execute strictly the laws, which in so many parliaments he had wisely enacted for the general good of a wretched people.

The assassination of James I., in an evil hour for his people, transferred his bloody sceptre to his son James, in the seventh year of his age. He was crowned, as we know from the record, on the 20th of March 1437. Here then commenced those successive minorities of seven of the Scottish sovereigns, which history has stated as so fatal to the royal power, so harassing to their subjects, and so destructive of the interests of the nation (*b*). Two of the ablest ministers of the late king were entrusted, by whatever authority, Crichton as Chancellor, and Livingston as governor of the king's person. To the jealousies and distractions which were incident to such an administration, in such an age, was superadded the marriage of the queen dowager to Sir James Stewart, in 1440, who formed pretensions to power that only weakened the hands of ministers which were already too weak from rivalry. Much of the history of that period turned upon the result of the several pretensions of those three competitors for the charge of the king's person. A truce of unusual length was made with England, while the odious factions of Scotland were engendering civil war. Archibald, the Earl of Douglas, who was at the head of the most potent family in North-Britain, took the lead in raising the standard

(*z*) By the 65th Act of the 3rd Parl. James I., it was enacted that the king might appoint the Chancellor and three discreet persons of the three estates who were to act as *the Session*, wherever the king should think fit, three times in the year, for the determination of such causes as were before adjudged by the king and his council. Mackenzie's Observations on the Stat., 18. In fact, James sat personally on the trial of the Duke of Albany. This was the ancient practice, and it was followed by his successors. See Robertson's Parl. Record throughout.

(*a*) In 1425 it was enacted by Parliament that six wise men of the three estates should examine the books of law, that is, the *Regiam Majestatem* and *Quoniam Attachiamenta*, and amend what needs amendment. 3 Parl. Ja., i. 54.

(*b*) Robertson's Hist. Scot., i. 34. A brief statement will justify that representation. In 1437, succeeded James II., when he was only six years and four months old. To him followed his son James III. in 1460, when he was but six years and seven months old. On his assassination he was succeeded by his heir, James IV., when he had advanced to sixteen years and three months. He was succeeded, when he was slain on Flodden Field, by James V., an infant of one year and five months old. On his premature death, succeeded his daughter Mary, a child of seven days old; and on her expulsion James VI., her son, who was born in June, 1566, and was crowned in July, 1567. Such a sad succession of infant sovereigns is unexampled in the history of any other kingdom, and would have deranged the best established government.

of independence during the king's minority. He died in 1438. The two sons of that great baron, were by a barbarous deed made to pay in 1440, the forfeit of their father's guilt. This treacherous violence did not add any thing to the stability of the perpetrators of that unjustifiable action. In 1444 the king at the age of fourteen assumed the government, and chose the young Earl of Douglas for his favourite. In attempting to avenge the wrongs of his family, this headstrong chief raised a civil war, wherein he seems to have delighted. In that age one Douglas rose after another, who, by their successions and marriages, became each more powerful and turbulent than his predecessor. In 1450 the Douglases rose to pre-eminence. They incited the jealousy of the king; they provoked the enmity of the nobles; and by their various oppressions, they roused the hatred of the people. William, the Earl of Douglas, became the terror of all those who did not contribute to his power. He intrigued with the king of England: he entered into a league with several of the Scottish Barons against their common sovereign: he put to death, by his own command, some eminent persons who refused to worship his ambition. He was at length summoned to court; but he refused obedience without a safe conduct: and declining, in a personal conference with the king, to dissolve his illegal combinations, James II., on the 13th February, 1452, by a stroke of indignation slew this haughty chief (*c*). The Douglases flew to arms, but they were everywhere overpowered; and in August, 1452, James Earl Douglas yielded a feigned submission to the king, and was received into favour, which he again abused. The king perceiving his ill faith promptly invaded his country and secured his strengths. The Earl, bringing a powerful army into the field, made a feeble attempt to relieve his castle of Abercorn, which was besieged by the royal forces; but his partizans, seeing his indecision, placed themselves under the king's standard. The contest was now at an end, which was to decide whether the house of Stewart or of Douglas was henceforth to govern Scotland. In June, 1455, the Earl of Douglas, his mother, his brothers, his adherents, were forfeited by Parliament (*d*). While they were thus driven from Scotland, they were received into the protection of England. Those rebellious barons, attempting to penetrate from England into the south-

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(*c*) On the 12th of June, 1452, the three estates passed a declaration, upon the death of Douglas, who was deemed by them to have been in actual rebellion, in favour of the king's conduct, who is adroitly justified for that unworthy act.

(*d*) Two years had scarcely elapsed when the forfeitures of the Earl of Douglas were conferred by inexperience on the Earl of Angus, a chief cadet of this ambitious family, who ran the same career of disloyalty, and in his turn was also forfeited.

western marches, were defeated by the Earl of Angus, the king's lieutenant. The subsequent year was distinguished by an inroad from the south and by an invasion from the Western Isles; but the result of both those hostile intrusions was some years' repose. The encouragement which all those rebels received from the English government amidst the renewment of so many cessations from war, was known to James II., who resented those insidious measures; and taking advantage of the civil war between the contentious families of York and Lancaster, the Scottish king led an army to the seige of Roxburgh, in July 1460. He was here slain by the bursting of one of his own cannon, in the twenty-fourth year of his turbulent reign, and the thirtieth of his premature age. His heroic queen, Mary of Guelder, encouraging his army to persevere, the castle, which had so long defied the skill and valour of the Scottish people, was taken and razed.

The great efforts of the government of James II. were not so much to lessen the power of the nobles, as to protect the sovereignty against the overpowering ambition of one family (*e*). Amid the turbulence of the times many salutary laws of a more general tendency were passed, which, if they had been prudently executed, would have meliorated the condition of every order in the state. But it was not the fashion of a rude age to consider an act of Parliament as the rule, which, as all had assented to its enactment, every one was bound to obey; and there is even reason to believe that, in proportion as several classes of men were exempted from attending in Parliament, the *three estates* became less numerous and less respected *(f)*. When the nobles saw the whole power of Parliament delegated often to a few of its members, their disobedience was the necessary consequence of their contempt (*g*). Yet the legislators of those

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(*e*) Several of the wise laws, which were passed by *the three estates* during this reign point directly at the lawless outrages of the Douglases. Sir George Mackenzie's Observations on the Stat., 34-5-41.

(*f*) If the members of Parliament who generally attended in those times be compared with the constituted members of the Parliament at Brigham, in 1290, they will appear very inconsiderable and inefficient. Robertson's Parl. Record, 153-231.

(*g*) The first act of Parliament during this reign was a *declaration of fidelity* to the king. This is said by Sir George Mackenzie, in his Observ., 33, to have been unprecedented; yet this practice is as ancient as the age of David I., and was continued throughout the Scoto-Saxon period: nor was the ecclesiastical estate required to give the oath of allegiance on such occasions. (2.) The act of revocation of the property of the crown is said to have been made now for the first time. Id. Such acts were often repeated, but without the desired effect. (3.) An act was passed prohibiting the disposal of the annexed property of the crown; yet was this salutary law disregarded, because every one had an interest to disobey it. Ib., 45.

times meant well, and if the prerogative of the king was weak and the people wretched, the defect was not so much in the law as in manners, which led to disobedience and to crime, rather than to habits of submission and the practice of morals.

The demise of James II. in 1460, transferred his blood-stained crown to his infant son, James III. A turbulent reign of eight-and-twenty years ended in the revolt of the barons and the assassination of the king. The Duke of Albany, the king's brother, was the most treacherous of those subjects, for his own ambitious ends (*h*). Next to him in baseness, though his superior in power, was the Earl of Angus, who had now succeeded the Earl of Douglas in his pretensions and atrocities (*i*). We may judge what must have been the imbecility of the government and the manners of the age, which could allow such a man to live after committing such a crime. The family of the Boyds, uninstructed by experience, raised themselves by the king's favour to pre-eminence, only to be envied and undone. James III. by making a prudent marriage with the princess of Denmark, acquired the Orkney and Shetland Isles. Those advantageous acquisitions were annexed by act of Parliament to the crown, though a thousand statutes in such lawless times, were unequal to the end of preserving such possessions from the frequent grasp of necessitous rapacity.

(4.) Several acts were passed to prevent the granting of *regalities,* and to retain those jurisdictions in the crown which should return to it by escheat or forfeiture. Ib., 35-43-47. But the ambition of the Barons easily prevented the effect of such salutary laws. (5.) The 76th act of the 14th Parl. of Ja. II. declared that no freeholder should be forced to come to Parliament unless he held a £20 land of the king. This statute marks the passion of the age for exemptions from parliamentary duties; as indeed we may see in the record that there were often as many members who were absent as were present. Robertson's Parl. Record, 231. (6). There were many regulations passed for the promotion of agriculture, though perhaps the agriculture theorists of the present times would not think them quite judicious, particularly the laws against *regrators.* In 1449, first appeared, as Sir George Mackenzie observed, p. 35, the well known expression in the criminal law of Scotland, *art or part,* which may be seen in the 9th act of the 5th Parliament of James II.

(*h*) Rym. Fœd., xii., 154, attests the detestable treachery of this prince, who sold his country to Edward of England. For his treason he was attainted in Parliament. Black Acts; Parl. Record. He fled to France, where he died. He was the father of that Duke of Albany who, as regent, misgoverned Scotland during the minority of James V.

(*i*) This Earl, at the head of his partisans in 1482, executed six of the king's principal servants in the king's presence, in the midst of his army at Lauder-bridge. For this atrocious act, including murder and treason, he was never called in question. He was soon taken into favour. He was at the head of those who assassinated this unfortunate king; yet, after enjoying the greatest offices of the State, he died quietly in 1513.

Lord Hamilton by marrying the king's sister, Mary, connected himself with the royal family, but at the same time weakened the royal prerogative. The great-grandson of this union lived to be the regent during the minority of Mary Stewart, and to be declared next to her, the second person in the kingdom. But it was the Earl of Angus who continued to act a character, as artful as it was insidious, who conspired with several of the nobles to dethrone the king. Calumny operating on the manners of the age was made to produce a revolt. James III. tried, by the pacification of Blackness, to reconcile conspirators, who were too powerful to be punished by the existing powers in the state, legislative, and executive ; but as their rebellious object was to overthrow an unstable throne, the arts of reconcilement were tried without succes. The conspirators by an effort of treachery and force, placed the prince of Scotland, a youth of sixteen, in the front of their enterprize. The two armies met in bloody conflict near Stirling, on the 11th June 1488, when the king was obliged to flee before his son. In his flight, having fallen from his horse, he was slain by a treasonous stroke of rebellious malice, in the 29th year of his unhappy reign, and in the 35th of his premature age.

If we were to form an opinion of the manners of those times from the acts of the Parliament during the reign of James III., we should suppose them to have been more refined than the actions of the same period evince. The estates again confirmed the rights of *the church* (*k*). Yet we have seen from events how little effect religion had on the morals of the age. One of the first acts of this reign was, to give the king the right of presentation to all benefices of ecclesiastical patronage, while the episcopal sees were void (*l*). The king was empowered to hold plea of any matter personally, *at his empleasance*, as *it was wont to be of before* (*m*). The Parliament again delegated to a few of its members the whole legislative power. The *substitution* of the supreme power has

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(*k*) Black Acts, ch. i.

(*l*) Innes's MS. Chronology, which quotes the Parl. Record of the 13th October, 1462 ; Wilkins's Concilia, iii., 582 ; Carmichael's Tracts, 41. Yet the Black Acts of this reign begin with those of 1466, which are said to have been made in the first year of James III., who came to the throne on the 3rd of August, 1460. In this error concur the laws and acts 1682, in 12°, which are deemed so accurate.

(*m*) 5th Parl. Ja. III., 26. Sir George Mackenzie, in expounding this act, runs back into *the Scriptures,* and into the canon and civil laws, without seeming to know that this was merely a declaration of the ancient law as it was practised throughout the Scoto-Saxon period, and indeed in subsequent reigns : this act was only in affirmance of the fundamental power of the king, as supreme judge of his people. Observ. on the Acts of Parl., 67.

been noticed as dangerous to the state (*n*). Yet was it not felt in that age, as begetting contempt, which induced disobedience. The *Leges Burgorum* were declared to be a part of the law, and the books of *Regiam Majestatem* were called *his Majesty's laws* (*o*). In those declarations, we may perceive the truth of what has been intimated, that the legislators of those times were not very accurate antiquaries. Yet did the estates display a very just anxiety for the preservation of their *Rolls* and *Registers*, by directing that they should be put into books (*p*). With an allusion, perhaps, to the atrocities of that period, the three estates declared that murders, much less assasinations, should not be entitled to sanctuary (*q*). During this terrible reign, the Parliament displayed greater zeal than knowledge, perhaps, for promoting the agriculture and fishery, and for regulating the trade, the coinage, and shipping, of a people who still wanted credit, and capital, and circulation, for the enjoyment of an active and gainful trade (*r*). The legislative acts of this reign show to an inquisitive eye some progress in society, though its history attests that there had been none in the morality of character, or in the softnesses of life.

James IV. was placed on the bloody throne of his father, on the 11th of June 1488, by the loud acclaims of a rebellious faction. The same barons, while stained with the blood of their prince and their peers, met in Parliament, wherein they passed an act of self-approbation, on "the debait of the field of Stirling," with a condemnation of the late king and his "perverst counsall." The same faction conferred lands, honours, and offices, on one another, in contempt of the recent laws. After some inefficient struggles, those barons who had remained loyal, submitted to the new government, since they could not re-establish the old; and the Parliament of 1490 passed an act of "universal concord "amongst the king's lieges," with other healing laws for promoting general quiet. The affairs of the two contiguous nations became henceforth completely

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(*n*) The parliamentary record is full of such substitutions in that age. The Lord Advocate remarked that the burrows of Scotland might meet of themselves in favour to commerce; but no other estate, without the king's authority. Observ. on the Acts of Parl., 92.

(*o*) Ib., 77-8.

(*p*) Ib., 74. How much the parliamentary record has been dilapidated, since that age, needs scarcely be mentioned.

(*q*) Ib., 69. Sir George Mackenzie remarked that the *cunzie* house pretended to be a *girth* or sanctuary in Scotland, like the *mint*-house in England. Observ. on the Stat., 69.

(*r*) The Black Acts throughout. The Lord Advocate remarked that Bruges had formerly been *the mart* of Scotland, but that in this reign the Scottish trade had been removed to the ports of France. Observ. on the Stat., 60.

interwoven. Henry VII. cultivated peace with James IV., yet was he not unwilling or ashamed to practice any unworthy art, or to take any unfair advantage (*s*). He persevered, however, in his salutary purpose of cultivating amity, which best suited his designs. From the year 1492, a long peace ensued, which was equally advantageous to the two kingdoms. Notwithstanding various obstructions, he married his daughter, Margaret, to the Scottish king, who was altogether worthy of her. She came into Scotland with a splendid train in 1503. This must be allowed to have been one of the most fortunate events in the annals of Britain, as it produced, at the end of a century amidst many changes, the union of the two crowns (*t*). During this reign Scotland appears to have risen considerably in the estimation of foreign powers. James IV. negotiated with most of the powers of Europe, and he sent effectual aid to some of them. Henry VIII. renewed the peace on his accession in 1508; but his aims were less steady, and his objects less salutary, than those of his father. In an evil hour for James, who was more chivalrous than politic, he was made knight to the queen of France in 1512, according to the romantic notions of a romantic age. He, in consequence, made preparations for war with England. He soon passed the Tweed with a gallant army. In the battle of Floddon, which was valourously fought on the 9th of September 1513, the Scottish king lost the flower of his nobility and his life, in the 39th year of his age, and the 25th of his reign.

Like the other Parliaments of that age, *the estates* during the year 1489, passed an act "for the freedome of halie kirke." It seems now, for the first time, to have been made criminal for any one to intermeddle with "the "profits or duties of halie kirke (*u*)." This act in favour of the church and the clergy, which did not long protect them from rapacity, was very properly followed by legislative declarations, "for universal concord among the "king's lieges (*x*)." They endeavoured also to protect the king's privileges, considering him, however, as *a minor* (*y*); but amidst such manners, they tried in vain to restore the royal prerogative to the necessary vigour of ancient times (*z*). The authority of Parliament was not either enlarged or strengthened,

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(*s*) In 1491 he gave money to Lord Bothwell and Sir Thomas Tod, on an engagement to deliver to him the king of Scots. Ayloffe's Cal., 313. In the same year Henry entered into a treaty, offensive and defensive, with Archibald Earl of Angus and his son George. Id. This is the same insidious Earl of Angus who dethroned the late king and continued to embarrass the present.

(*t*) Ib., 314-16.

(*u*) 2 Parl. Ja. IV., 7.

(*x*) Ib., 8.

(*y*) Sir George Mackenzie's Observ. on the Stat., 97.

(*z*) Ib., 115.

when additional exemptions were given to those members, whose duty required them to attend (*a*). Yet was the general principle of former ages again recognized, that the king by his precept, might summon any of his subjects to give their presence and advice in parliament (*c*); and considering how much of the public revenue was paid by *the Burrows*, it was a salutary provision that they should be always summoned as one of the three estates, when contributions were intended to be asked (*d*). There seems to have been much zeal for promoting domestic economy, though the best means were not always used. Agriculture was promoted; weights and measures were settled; *craftsmen* were regulated; coins were struck, money was debased (*e*); and shipping were required to come first to free burrows. In addition to all those regulations, it was enacted under a penalty, that barons and freeholders should send their *eldest* sons to the schools to learn *Latin* and law (*f*). It had been of much more importance to have taught them *morals* and *manners*, of which this nation had none for many an age; and the history of those reigns attests, that a people must be misgoverned and wretched, who are unprincipled and unmannered.

From Floddon-field was transmitted the blood-stained sceptre of James IV. to his son of the same name, who had been recently born on the 5th of April 1512. The Lords of the Council gave it as their opinion to the queen, "that the king be "crowned on the 21st of September, in the kirk of the castle of Strivling (*g*)." The queen seems to have had power to take upon herself the government of her son and the regency of the kingdom, at least while she remained single; but no motive could induce her to continue a dignified widow, the guardian of her child, and the governor of his kingdom. In the 25th year of her age, she married the young Earl of Angus in 1514 (*h*); and after her divorce from him, Henry Stewart,

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(*a*) 6 Parl. Ja. IV., 78. Sir Geo. Mackenzie's Observations, 114. It was undoubtedly a wise provision that every part of the Scottish territories should be ruled by the king's laws and by none other, with an allusion to the Hebride, the Orkney, and Shetland Isles. 6 Parl. Ja. IV., 79.

(*c*) Sir G. Mackenzie's Observations, 114.

(*d*) 6 Parl. Ja. IV., 85. The royal burrows used to pay "one *sixth* of the taxation of Scot-"land."

(*e*) The legislators of that age were aware that a fraud was committed when money was *enhanced*, and they enacted that debts should be paid according to the value when the debt was contracted.

(*f*) 5 Parl. Ja. IV., 54.

(*g*) Robertson's Parl. Record, 525. Crawford says he was crowned at Scone, the ordinary place of inauguration. Hist. of the Stewarts, 34; and Dr. Henry adds, in December.

(*h*) Of this marriage was born the Lady Margaret Douglas, who married the Earl of Lennox, and who had by him Lord Darnley, the husband of Mary Stewart, and the father of James VI.

a second son of Lord Avondale. The firmness with which the Scottish people heard of their defeat at Floddon, and of the threatened invasion from England, does them great honour. They resolved to defend their land to the last extremity. This resolution to resist saved them from invasion. The queen's marriage with the Earl of Angus induced the estates to choose the Duke of Albany, the son of that Duke, who was the brother of James III., and was expelled, as we have seen, as their regent. He seems to have been well qualified for this station among an unprincipled baronage, by his talents and vigour. The calm which ensued, only produced a conspiracy for his removal. The conspirators were protected by Henry VIII., who saw with uneasy eyes, a Frenchman of abilities at the head of the hated nation. He intrigued with the Scottish Parliament, who gave him a spirited answer. The year 1520 is the disgraceful epoch of the complete formation of the English and French parties in Scotland, the natural consequence of the infancy of its king, and the factiousness of its baronage. Amid their preparations for war with England, the Duke of Albany departed to France. On his recess in 1524, the king was declared by Parliament to be of sufficient age to govern, though he was only twelve, and to assist his youth, the queen and a council were assigned him. The Earl of Angus soon after besieged the king, the queen, and the council in Edinburgh Castle. He was thus enabled to obtain the king's person, and, in 1525, to seize the whole government. Various attempts, which were attended with great bloodshed, were made to free the king from his thraldom, which he bore with extreme impatience. In 1528, he himself accomplished, by address and vigour, what had been denied to arms, by making his escape from Falkland Palace, where he was detained, to Stirling Castle, where he was free. His barons crowded around him when they saw that he could act for himself. Angus and his friends were attainted by the Parliament of Scotland, but were of course protected by the government of England. The retreat of those turbulent men restored that tranquility, which had been disturbed by their ambition. This internal quiet enabled James V. to inflict on the borderers, who were guilty of almost every crime, the most exemplary punishments. An unusual quiet of several years ensued, from this act of rigid justice. The king's enterprize led him to visit the Orkney and Hebride Isles, where he endeavoured with some success, to make his government respected. He now sailed to France, where he was a welcome visitor, as he sought a wife among her accomplished daughters. In May 1537, he brought with him Magdalene of France to his own kingdom, where they were received with the sincerest gratulations ; but she lived not to see the pageants, which were preparing for her reception. The king did not, however, hesitate to affiance another Lady of France, Mary of Lorraine, the widow of Longueville. She brought him two sons in two years, who did not live long. Henry VIII. tried in vain for several years, by various intrigues, to bring the Scottish king to his purpose of change. The negotiations were followed by warfare; but James V., who was not aware that his nobles had been corrupted by his uncle, Henry, soon found from grievous experience, that in his army he had neither authority nor influence; and when his troops approached the western border of England, they deserted their leaders, who fell into the hands of the English without striking a blow at Solway Moss. James V., who was already afflicted with the loss of his two sons, when he learned the misconduct of his army, gave way to despair, which brought him to his end on the 14th of December 1542, in the 31st year of his age, and the 30th of his reign. While he languished on his deathbed, he was told that his queen had brought him a princess; but he only said in a feeble voice, " that it had come by a lass, " and would go by a lass."

The laws of this reign do not admit of much review. Like their predecessors, when the clergy had less influence, the three estates renewed their former declarations in favour of the freedom and privileges of the kirk (*i*). There were many acts made for promoting essential objects of domestic economy. The planting of woods was encouraged; the breeding of horses for war was promoted; fishing was incited; and traffic was regulated. Depredations, robberies, and spoils, were subjected to additional penalties. There was a general remission of crimes. There was passed an act of revocation of improvident grants during the king's minority, which was followed by another for annexing many lands and regalities to the crown; but the legislative measure of the present reign, which was attended with consequences as lasting as they were important, was the establishment of *the College of Justice,* with a body of lawyers. It is apparent that there was some progress in jurisprudence, as well as in manners; and it only required to bring to some maturity the interests and happiness of the people, that the life of a king of so much knowledge and vigour, should have been prolonged throughout a longer term.

James V. was immediately succeeded by his daughter, Mary, whatever theorists might write against *the regiment of women* (*k*). The Parliament soon recognized her title, by appointing the Earl of Arran her tutor and governor

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(*i*) Parl. 1, Ja. V., 1.

(*k*) Knox wrote on that topic. The royal historiographer seems to consider the rule of women as somewhat unprecedented in Scotland, but he did not sufficiently recollect that *the maiden of Norway* had succeeded to the crown with universal concurrence, and had been as much and as roughly courted as Mary Stewart. He forgot that the crown had been entailed on Margery Bruce.

of her realm. He was also declared the second person in the kingdom, being the great-grandson of Mary, the sister of James III.; and the queen was crowned on the 9th of September 1543, at Stirling, amid domestic faction and foreign war. The queen-mother contended for pre-eminence with the Earl of Arran and Cardinal Beaton, a man of great talents, but of inordinate ambition, who was at the head of a third party, and pretended to rule, because he was regarded as the most fit. The whole nation was divided into two great factions, the English and the French, who spread universal corruption through the land; and the reformers began to raise their heads in opposition to law, and in the face of persecution. In this state of Scotland, under their youthful queen and a wretched government, Henry VIII. imitated the policy of his father, though with less artifice, by endeavouring to obtain possession of the Scottish sovereign as a captive or a daughter-in-law. The firmness of the Parliament and the indignation of the people disappointed both those aims of the English king. He invaded Scotland by sea and land without obtaining a royal heiress by so rough a courtship, or a captive either by open force or by private intrigue. The Parliament, after they had assented to the views of Henry, were provoked to marry their sovereign to the heir of France, to which she was sent for safety, for her education and espousals; she departed in 1548 and returned in 1561. Meantime the assassination of Cardinal Beaton, the chancellor, in his castle of St. Andrews, in May, 1546, by Norman Leslie, and other conspirators deranged the government of a distracted country (*l*). The whole power of the Regent was unable to retake this castellated house of the Cardinal Archbishop, supplied as it was by the English government. The galleys of France compelled the conspirators to surrender in the subsequent year. The queen-mother, in order to strengthen her popularity, solicited their pardon. Scotland was freed from a languid and harassing war, by a peace between England and France in June, 1546. The death of Henry VIII., in January, 1547, rekindled the flames of war in Scotland, with the vain hope of terrifying a people who had long been used to devastation. The battle of Pinkie, on the 10th of September, 1547, only irritated the gallant nation, which had withstood the Edwards of former times, though the English government tried by intrigue, to secure the principal entrances into the kingdom (*m*). Their perseverance met with the usual reward of valour. Their

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(*l*) The Privy Council Register attests the participation of Henry VIII. in this odious deed. Edward VI. pensioned the assassins, and sent them a reinforcement of men, gunners, arms, and ammunition, for retaining the castle. Privy Council Reg., May, 1547.

(*m*) The Privy Council Register evinces that the Earl of Lennox was engaged to deliver Dumrights were recognized, and their interests protected by the peace, which was concluded between England and France on the 24th of March, 1550. Throughout Scotland an unusual quiet ensued. Nothing disturbed the general tranquility but the intrigues of the queen-mother for the supreme rule. With the influence of France and her own address, she obtained her ambitious object in 1554. She did not, however, use her power with a moderation quite equal to the prudence wherewith she had gained it. By endeavouring to obtain a land-tax for maintaining a small body of troops she disgusted a necessitous baronage, who felt this unusual measure. She attempted to involve the contiguous nations in war for the interests of France. The army which her solicitations had raised, advanced, indeed, to the Tweed in 1556 ; but neither entreaties nor artifice could induce a dissatisfied people to cross that conterminous stream. In the subsequent year the king of France solicited the marriage of the Scottish queen with the Dauphin. Commissioners were chosen by Parliament to witness that important ceremony. Nor were they inattentive to secure, by the marriage contract, the privileges of the people and the independence of the nation ; and the marriage was celebrated with all the pomp which that refined court could display on the 14th of April, 1558. Every effort was now made to identify Scotland and France. The people of the two nations were mutually naturalized ; and the Dauphin was admitted into a full participation with the Scottish queen in the government of her country, under the indefinite notion of enjoying *the matrimonial crown* (*n*).

Of *the Stewartine period*, it may here be proper to take a short review under several heads : (1.) To look upon the condition of the great body of the people is always interesting. The practice of *villeynage* existed, as we have seen, throughout the *Scoto-Saxon period.* This degrading practice has been traced to the commencement of the fifteenth century (*o*). It did not exist in Scotland at the beginning of the sixteenth (*p*), and it plainly follows from this important fact that the discontinuance of slavery took place under the mild reigns of the Jameses, upwards of a hundred years before the practice of bondage had been discontinued in England. (2.) The prerogative of the king through-

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barton Castle into the hands of the English. The Earl of Argyle offered his devotion. Privy Council Reg. of date 15th February, 1547-8. Lord Grey was paid money for delivering Broughtay Castle on the Tay. Ib., 15th January, 1547-8 ; and a citadel was ordered to be built at Dundee. On the 17th of June, 1548, forty shillings were issued to Mr. Cecil, as a reward to Mark Brown for a plat of the coast about the river of Taye in Scotland. Privy Council Reg. of that date.

(*n*) See Robertson's Parl. Record, 730-9.

(*o*) See before, p. 723.

(*p*) Stat. 1 Parl. Ja. V., 2 ; 3 Parl. Ja. V., 6.

out the *Scoto-Saxon period* was the same, if not greater in Scotland than it was in England, even under so able a prince as Edward I. (*q*). This prerogative came down to Robert Bruce, though it was perhaps somewhat lessened in its transmission from the contest for the crown. The princes of the Stewartine dynasty only busied themselves to enfeeble their just authority, without being conscious of their own impolicy. By their improvident grants of regal jurisdictions, they raised up their barons to dispute their legal jurisdiction. Under so many minorities, the royal prerogative became quite debased; yet, are we assured that, "those Scots kings endeavoured to extend the royal "authority,"—that "each king pursued some plan for humbling the "nobles (*r*)." (3.) It was altogether consistent with such improvidence, that Robert III. settled *the Stewartry* on the prince as an apanage. Under such a state of society, while the law was set at nought, this appointment merely raised up a principality within a kingdom, and degraded still more the just authority of the royal prerogative. (4.) The change in the constitution of Parliament, by admitting representatives and dispensing with the attendance of the constituent members, tended to lessen its authority. It was no longer

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(*q*) The views which have been given of the royal prerogative, or legal capacity of the king, were represented from the records of the kingdom. See before, Book IV., ch. iv., of *the Law*. The late royal historiographer gave a view of the Scottish constitution by analogy from *some feudal law* of *some country*. Robert. Hist. Scot., i., 15. Barrington, an antiquary lawyer, could not find the *feudal law* in England as we have seen. A more recent historian of the law of England was as little successful in finding in that country the feudal law: he rather considers the theories touching the feudal law as visionary. See Reeve's Hist. of the Law, i., 45-6. These observations apply to the jurisprudence of Scotland. During the *Celtic* government of Scotland there was no *feudal law* in that country. During the Scoto-Saxon period whatever of *feudism* they had came out of England; and we may thus perceive that it is quite absurd to reason analogically from the feudal law a nonentity in opposition to the records of the country. See before, p. 696. Yet said the royal historiographer, "the royal authority was never great,"—"the king's judicial authority was "extremely circumscribed." Hist. Scot., 20, 111. "The *thanes*, he adds, were the equals and "rivals of their prince." Ib., 29. This was said in opposition to the records which demonstrate that the *thanes* were mere land stewards or bailiffs, who had the management of the villeyns. See before, p. 717.

(*r*) Robertson's Hist. of Scot., 46-46. Nothing can be more apocryphal than this *theory* of the royal historiographer; nothing can be so little supported by facts; and nothing can be more inconsistent with analogy. The understanding is shocked when we hear it gravely said that an infant or a captive prince pursued a plan for humbling the nobles. When the Earl of Douglas bearded James II. when he refused to obey the command of the supreme magistrate to dissolve an illegal combination, he put himself in a state of rebellion against lawful authority, as the Parliament very properly reasoned in justification of that stroke of indignation which cut down the traitor. But what policy can be found in a burst of indignation!

reverenced as the seat of wisdom and of valour. Yet the statutes of successive Parliaments evince much good sense and much solid policy. It was only to be regretted that the royal prerogative was too weak, or too irresolute, to execute the law in protection of the people. (5.) The *judicial* power was wholly possessed and executed by the king, as the fountain of jurisdiction during the Scoto-Saxon period as we have seen *(s)*. When the Parliament under Robert I. began to act by its committees in a judicial capacity, it merely acted as the king's court. The king, sitting on his bench of justice, continued to exercise the high trust of justiciary. The judicial power of the crown was recognized by Parliament as an ancient authority. At length, under James V., the Prince, the Parliament, and the Pope, concurred to establish *the College of Justice*, which continues to distribute law and right to the people under happier influences (*t*). (6). The Scotican church had no longer the influence or the power of ancient times. The form remained, but the spirit had fled. In 1471 Bishop Graham obtained a bull from the Pope erecting the see of St. Andrews into an archbishopric, and he was imprisoned by the king for his presumption. In January, 1488-9, the bishopric of Glasgow was erected, by act of Parliament, into a metropolitan see, such as the archbishopric of York (*u*) ; and the goods and liberties of the Church of Glasgow were confirmed by a charter of James IV. (*x*). During the feeble reign of Robert III., *collegiate* churches were first erected, and the passion for such establishments continued till the infancy of Mary Stewart saw a new spirit arise, which was more studious to throw down ancient fabrics than to erect new superstructures (*y*). (7.) The Parliaments of those untutored times appear to have been aware of the value of *education*, since, without instruction, laws are enacted in vain. Scotland certainly enjoyed the benefit of schools in very ancient ages. It was reserved for the *Stewartine* period to see six colleges erected within that kingdom for the instruction of youth (*z*). Yet the great

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(*s*) In Book IV., ch. iv., of the Law ; yet, says the royal historiographer, "the king's judicial "authority was extremely circumscribed." Hist. Scot., 20.

(*t*) 7 Parl. Ja. V., 93. (*u*) Innes's MS. Chron., which quotes the record. (*x*) Id.

(*y*) From 1392 to 1545, there were established in Scotland thirty-five collegiate churches, whereof eleven were founded under James II. ; they consisted chiefly of a dean or provost, with prebendaries or canons and singing boys, and they were endowed with rents, advowsons, and other ecclesiastical rights and privileges.

(*z*) In 1412, the University of St. Andrews was founded by Bishop Wardlaw ; St. Salvador's College was erected by Bishop Kennedy in 1458 ; St. Leonard's College was erected by Prior Hepburn in 1512 ; St. Mary's College was erected by Archbishop Hamilton in 1552 ; the University of Glasgow was founded by Bishop Turnbull in 1453 ; and the University of Aberdeen was established by Bishop Elphinston in 1500.

defects of that country, for ages after the liberal foundation of those scholastic institutions, and even long after *the Reformation*, was want of suavity of manners; want of habits of submission to law, or regard to the fitnesses of things.

III. The epoch of *the Reformation* will be for ever memorable, as the thing itself will always be deemed important for its object, though its means were not always either legal or fit. The dawn of the Reformation may be traced to the reign of James I., when a Wickliffite was condemned, and a law was passed for the punishment of *heretics* and *lollards* (*a*). Ages elapsed before *toleration* was thought either politic or useful for blunting the asperities of controversy, or softening the rigidities of zeal; and James V. condemned in his Parliament "the damnabill opinionis of the greit heretike Luther (*b*);" and passed other laws "against heretikis (*c*);" while Patrick Hamilton, a man of some family, who was fervent with zeal, was condemned to the flames by a sentence rather harsh than illegal. This prince resisted the several applications of Henry VIII., his uncle, for reforming his realm, according to the wild plan of that rough reformer. The many acts which were passed during the *Stewartine* period, as we have seen, in support of the privileged rights of the "halie kirke," are satisfactory proofs that the power of the church was in its wane. Before the demise of James V., the Abbots and Bishops adopted the practice of relinquishing some of their privileges and property to some powerful Baron to protect their rights against violence (*d*). Those bonds of *man-rent* began during times of anarchy; and were continued by the Bishops when they felt themselves insecure, during the progress of innovation, and the imbecility of law (*e*). It was under the minority of Mary Stewart that the reformers began to quicken their steps, to avow their opinions and to propagate their

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(*a*) 2 Parl. Ja. I., ch. 31, of the Black Acts. Innes remarked of Skene that he had castrated the word *lollards* in his edition of the statutes.

(*b*) Black Acts, 1535, ch. viii.

(*c*) Keith's Hist., 12-15.

(*d*) The Duke of Chatelherault, the second person in the kingdom, gave a bond of *manrent* to the Bishop of Glasgow, who had been once so powerful. Innes's MS. Chronology, under the years 1545 and 1558. The Earl of Crawford was the bailie of the Bishop of St. Andrews, as the consideration for his support. Rel. Divi Andreæ, 77. The Earl of Huntly and his friends were under bonds of *manrent* to the Bishop of Aberdeen, for maintaining the Catholic faith. Keith's Hist., xv. Norman Leslie, the principal assassin of Cardinal Beaton, had given a bond of *manrent* to that eminent person on the 24th of April, a year before his assassination. Innes's MS. Chronology, under 1545.

(*e*) In 1555 the Stat. 6 Parl. Mary 43, prohibited all particular leagues and bonds of *manrent* as illegal.

doctrines. But it was not till the 3rd of December 1557, that a few persons of rank entered into a regular bond for renouncing the established church, and for supporting *the congregation of Christ* with their whole diligence, power, and substance (*f*). From this epoch the reformers were known by the name of *the Congregation.* The statute-book attests how many laws were made in that age for reforming the state. The frequent councils of the Scotican church evince how readily the constituted authorities concurred in the general desire for reforming ecclesiastical abuses. Yet, when the zeal of innovation is roused the reasonable voice of just legislation is no longer heard. The torch of civil war was now carried through the land. Other events infused a still more inveterate spirit into domestic dissention. When Mary of England died in 1558, Henry II. of France directed the Queen of Scots to assume the title and arms of the English crown. Elizabeth never forgave this assumption: in vain did her cousin Mary Stewart apologize, by saying that, when she had done this, she was like other married women under the power of her husband, and was also identified with the government of France; but when her husband died she had desisted from pretensions which she now disclaimed. From this time Elizabeth never ceased from inciting the factions of Scotland; she encouraged the reformers; she furnished them with a fleet, an army, and money, for supporting their efforts against the established government. France also sent an army to Scotland for maintaining the rights of her queen and the pre-eminence of her rivalry. Whether England or France should henceforth influence Scotland was now contested in many a bloody conflict in the neighbourhood of Edinburgh during the year 1559. Every mischief of anarchy ensued; and the contending parties became somewhat desirous of mutual reconcilement. Meantime, died Henry II. of France and the queen-regent of Scotland: the principal reformers with the Duke of Chatelherault at their head, entered into a licentious treaty with the Duke of Norfolk, the Lieutenant of Elizabeth, which had for its egregious pretence the security of the ancient liberties of Scotland, and for its principal end the expulsion of the French (*g*). The English and

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(*f*) Keith, 66. How illegal this association was, we have lately seen. Here is an example of half a dozen persons, with the Earl of Argyle, the Justice General of Scotland, at their head, who oppose the laws and defy the government. When we behold the Justice General trample the laws under his unhallowed feet, when we see a matrimonial king assassinate the secretary of the real sovereign in her presence, when we see the Chancellor assist in that aggravated murder, when we behold the Peers of the realm acting as assassins, we must expect something extraordinary in the annals of a people who lived under such rulers.

(*g*) This was the treaty of Berwick, which may be seen in Keith, 117.

French ambassadors soon after arrived to adjust the mutual wrongs of their nations. As there was little to be adjusted, such dexterous negotiators soon formed a treaty of amity (*h*). In this document, however, the reformers are not included; some concessions appear to have been granted to their application, though what they were seems to be strenuously disputed (*i*). The English and French armies immediately retired; and the congregation proceeded to assemble a parliament without the authority of their sovereign, as if no such treaty had been made or such concessions had been granted (*k*). Yet did they proceed to overturn the whole ecclesiastical establishments of the kingdom by acts which they might have foreseen would never be ratified by their sovereign (*l*). They adopted another unusual measure. The convention sent an embassage to Elizabeth, offering her the Earl of Arran for a husband, in order to promote perpetual amity. She civilly declined this match which they had no authority to make, but she assured them that she would not neglect any thing for the common defence of the two realms against any common enemy. This intimation, which plainly pointed to the sovereign of Scotland as the common enemy of Elizabeth and of the reformers, was soon rendered nugatory by the death of Francis II., without issue, on the 5th of December, 1560. Mary, when she

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(*h*) Ib., 134. The principal stipulation consisted in the engagement of Francis and Mary to discontinue the use of the arms of England. It is apparent that Elizabeth's ambassadors gave the law to the French upon every point.

(*i*) See the supposed *concessions* in Keith, 137. If these be genuine, Monluc and Randan did not understand the meaning of their own terms, for they gave away from the king and queen the whole sovereignty of Scotland to the predominant faction. "The sovereign authority," says the late royal historiographer, "was by this treaty transferred wholly into the hands of *the congregation;* that "*limited prerogative* which *the crown had hitherto possessed* was almost entirely annihilated; and the "aristocratical power, which always predominated in the Scottish government, became supreme and "incontrolable." Hist. Scot., i., 241. Mr. Whitaker strenuously insists that the whole is a forgery. Vindication of Mary, iii., 463. Some *concessions* were granted, but the contents of the only copy which remains are so extravagant that sober men may well have hesitation before they receive it as genuine. We may, however, see how studious the king's historiographer is to display his egregious want of knowledge of the Scottish constitution.

(*k*) Keith, 146.

(*l*) See in Keith, 151, "the acts made in the pretended parliament of August, 1560." There were not wanting those who protested at the time against this convention as an illegal assembly. But from the names and numbers of the persons who were admitted, it plainly appears not to have been a parliament consisting of constitutional members. The queen declined to see the messenger who was sent to solicit her confirmation of those acts; and the Regent Moray, after he had deposed the queen in the first Parliament of James VI., ratified those several measures as if they had been passed in a lawful parliament. Sir Geo. M'Kenzie's Observ. on the Stat., 172.

ceased to be considered as queen of France, was courted both by the Protestants and Papists of Scotland; each party sent an envoy to lay before her its pretensions, to offer its attachment, and to solicit her return to her native kingdom. Meantime, Elizabeth intrigued with the reformers in Scotland. Mary declined to ratify the treaty of Edinburgh, which seemed to have sacrificed her just authority, the established constitution, and her people's safety; and Elizabeth refused to grant a safe-conduct to the Scottish queen, attempted to intercept her passage to Scotland; yet did she arrive safely in the port of Leith on the 19th of August, 1561.

Mary Stewart was now, at the age of nineteen, to enter on the difficult task of governing a corrupt people and a factious nobility. As she was aware that the Protestants were the most numerous part of her subjects as well as the most enterprising she placed her administration in their hands. She gave her chief confidence to James Stewart, her bastard brother, who, as he had been born in 1533, was at the age of twenty-eight, and who was soon created Earl of Moray by her goodness rather than her gratitude (*m*). She issued a prudent declaration for continuing the state of religion as she had found it on her return; yet the *concessions*, whatever they were, of the treaty of Edinburgh seem not to have been any more recollected, so that she possessed all the constitutional prerogatives which had come down to her from her ancestors. Queen Elizabeth congratulated Mary on her safe arrival, professed her sincere regard but pressed for the ratification of the treaty of Edinburgh, and she continued to intrigue with the Scottish nobles and with the reformer Knox. Under such circumstances it was impossible to govern such a people with the best intentions and talents to any salutary end. The year 1560 is the epoch of the first assembly of the reformed church, which soon assumed an authority and claimed a submission that the Parliament had not lately enjoyed. The year 1565 is memorable for the restoration of the Earl of Lennox to his rights, for the arrival of his son, Lord Darnley, the cousin of Mary Stewart, and the great-grandson of Henry VII. by his daughter Margaret. At the age of nineteen he was introduced to the queen of Scots, who had been courted by many wooers, to each of whom the envy of Elizabeth had made some objection; considering the birth, the age, the connections of Darnley, there could not easily have been found a less objectional match for Mary Stewart. The intrigues of Elizabeth were again interposed to disappoint the wishes of the rival queen, though she had connived at his journey to Scotland in the hope that it might

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(*m*) The epoch of the birth of Moray, which has been hitherto unknown, is ascertained by the MS. Letters of the famous Leslie, the Bishop of Ross.

lead to a matrimonial union; yet Mary married Darnley on the 25th of July 1565, though it was opposed by some of her nobles, who had an interest in preventing the birth of an heir to their crown. The Earl of Moray, the Duke of Chatelherault, the Earl of Argyle, and others broke out into rebellion; but as they were not cheered by the voice of the people, as they were closely pursued by the queen's army, the conspirators were obliged to seek for shelter under the previous promises of Elizabeth, who yet disavowed them. The year 1566 was marked by a still more atrocious conspiracy. This was a combination of Darnley, the nominal king, Morton, the Lord Chancellor, Maitland, the Secretary of State, Lord Lyndsay, Lord Ruthven, and other conspirators, for the assassination of David Rizzio, the queen's private secretary, and one of her lutenists. Their odious purpose was executed on the 9th of March, at seven in the evening, in the queen's closet, within the palace of Holyroodhouse, while the queen was at supper with her sister, the Countess of Argyle. The conspirators dragged Rizzio from the queen's presence, and gave him a thousand mortal stabs. So foul a murder, and so aggravated an offence, were never committed before in any country in any age (*n*). After two days imprisonment in her palace the queen prevailed on Darnley to flee with her to Dunbar, where she was immediately joined by her more loyal Barons. The principal conspirators were now obliged to seek for that shelter under Elizabeth, which she never denied to the disturbers of Mary's peace. Meantime Moray and the other rebels, who had found protection in England, returned at this critical moment, and found favour with the Scottish queen amidst her distresses. The great object of that frightful assassination was now accomplished by the restoration of Moray (*o*). On the 19th of June, 1566, the queen was delivered in the

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(*n*) The motives of that terrible assassination may thus be disclosed. Darnley, who had been created an Earl and a Duke, and declared king by Mary before their marriage, continually urged the queen to confer on him the *crown matrimonial.* The old law of Scotland knew nothing of a *matrimonial crown;* but Mary herself explains what she understood by his solicitations, viz., "the haill "government of our realm." Keith, 332. Darnley, a weak and profligate young man, had been pushed on by his associates to urge this claim, and to concur in that murder, in order to create a breach with the queen, and to ruin both. Morton, the Chancellor, entered into this odious conspiracy, in order to prevent the meeting of Parliament, which was to have assembled three days after the murder, and which was to have forfeited Moray, Argyle, and other rebel lords on account of the queen's marriage. Lindsay and Ruthven, who were two of the most ferocious lords of those savage times, had been taught to look on Rizzio with indignant eyes as a foreigner who had intruded himself into the queen's favour by scandalous artifices.

(*o*) Moray soon after procured the pardon of Morton, Lindsay, and Ruthven. We thus perceive from the facts that the principal conspirators during those wretched times played the whole game of treason into each other's hands, for purposes the most interested, and for ends the most base.

Castle of Edinburgh of a prince, who was destined in the midst of such hazards, to unite the two congenerous crowns. It is singular to remark that only two persons, Thomas Scott and Henry Yair, were condemned and executed for two such crimes as the assassination of Rizzio and the treason against the queen (*p*).

The year 1567 is memorable for events which were still more extraordinary, and which were the natural effects of those previous conspiracies. On the 9th of February, Lord Darnley was himself assassinated in a lone house, without the walls of Edinburgh (*q*). The Earl of Bothwell was immediately suspected of being the chief perpetrator of this hideous crime (*r*). The Lord Chancellor Morton, who had returned from England a month before, knew Bothwell's fell intent, without preventing it, without revealing it; but there was nothing to prevent him from pointing the public indignation against Bothwell (*s*). Maitland, the Secretary of State, knew the design of Bothwell without disclosing it (*t*). The agents of Elizabeth sent from Edinburgh many intimations to her ministers of such a plot against Darnley (*u*); and Mary herself seems to have been the only person of any consequence who was unacquainted with a design, which was attended with such mighty consequences (*x*).

(*p*) Arnot's Crim. Trials, 377. (*q*) Birrel's Diary. (*r*) Keith's Hist., 365.

(*s*) James Earl of Morton was appointed Lord High Chancellor for life, by a commission dated the 7th January, 1562-3. Crawf. Off. State, 425. He was named a member of Mary's first Privy Council, yet he sowed dissension between the queen and Darnley. He seems to have been the principal adviser of Darnley. He was actually present at the assassination of Rizzio. He was denounced a traitor for being the principal instrument in that murder, and he was obliged to seek shelter in England; yet was he pardoned for that horrible crime. Keith, 187, 326-7-30-334. On the scaffold he confessed his knowledge of the murder of Darnley, both before and after the fact. See his *Confession* in Bannatyne's Journal. 493-9.

(*t*) The Secretary of State was one of the assassins of Rizzio, yet received a pardon from the queen for that odious deed. Keith, 334. He knew of the design upon Darnley. Ib., 355.

(*u*) Ib., 287-329.

(*x*) See Mary's letter to the Archbishop of Glasgow. Keith, viii. Yet has it been made a question for debate from that age to the present, whether Mary had been an accomplice in the murder of Darnley, her husband. The prejudice of the late Lord Orford led him to say, "that "a plea of such length serves rather to confirm than weaken the evidence for the fact." Cat. of Royal and Nob. Authors, ii. 206. But it had been an observation full as just, as well as logical, to have said that since the criminations of two hundred and forty years have not proved her guilty, she ought to be fairly deemed innocent. Party has, however, entered into this question with its usual unfairness; and it is supposed that she ought to be presumed to be guilty, rather than innocent, it being more likely that a wife would murder her husband, and a queen act as an assassin, than that nobles, who were accustomed to crimes, should perform this atrocious action, Various motives concurred to produce the assassination of Darnley. A wretched age was familiar with such crimes. A corrupt baronage was in the habit of perpetrating with impunity the most horrible deeds. Darnley had made himself obnoxious to several persons of great influence. He had offended the Earl of Moray, who did not soon forget or easily forgive an injury. He had enraged Morton, the Chancellor, and the other assassins of Rizzio, by disavowing them after he had participated in their guilt; and the Earl of Bothwell seems to have entertained a criminal passion for the queen, as well as a fixed hatred for Darnley. Suspicion soon settled upon Bothwell as the principal

and cast the offence from themselves on an innocent person. The same inconsistency argues that, as she was educated in a corrupt court, she must have been corrupt; yet her sonnet and her sorrow for the loss of Francis, her first husband, attest that her heart was yet uncontaminated with corruption; and the steadiness with which she adhered to her faith, amidst twenty years persecution, evinces that religion had its proper influence upon her soul. Hitherto in this argument no positive evidence has been adduced to prove her guilt, and therefore she ought to be acquitted as innocent. But at length certain *letters, sonnets,* and *contracts*, between Mary and Bothwell, have been introduced as proofs of a guilty intercourse, rather than a direct participation in the crime; and those *letters, sonnets,* and *contracts* were first produced by the Earl of Morton, the queen's chancellor for life, who pretended to have found them in the custody of Dalgleish, a servant of Bothwell. Yet this wretched magistrate had committed murder and treason at the assassination of Rizzio; he knew of the design to assassinate Darnley, yet he concealed it, and was thereby guilty of misprision; he knew of the crime, and was of course a participant, for which he was brought to the scaffold, where *he acknowledged his crimes.* Now, this convicted criminal would not be admitted as a witness in any court of justice within Great Britain, and the production of such documents by such a wretch at such a time casts strong suspicion on such papers, which were contaminated by his guilty touch. (2.) When those suspicious epistles were first introduced into the Privy Council they appeared, as the register attests, "to have been *written* and *subscribed* "by her own hand, and sent to James Earl of Bothwell." (3) When those *previe letters* were first brought into the Scottish parliament, they appear only to have been "haelie written with her "awin hand," as the record evinces, and not subscribed by her. (4.) When those dubious letters were first produced before the commissioners at York for judging of the proofs of her guilt, they seem to have been *superscribed* to Bothwell, yet they afterwards appeared before Elizabeth's commissioners at Westminster without any superscription to any man; and those letters thus finally appear to have been neither subscribed by Mary nor superscribed to Bothwell. (5.) When those letters were first produced before the Privy Council of Scotland they were written in the *Scottish* language, so they appeared to the Commissioners at York; but when they were produced to the commissioners at Westminster they were written in *French.* The whole thus appears "to "have been a *juggle* of State to cozen the people into obedience." The sonnets and contracts have been equally convicted by their own contexts of forgery. I have read the whole controversy on the genuineness or forgery of those documents, I have ransacked the Paper-Office for information on this interesting subject, and there does not appear to me to be a tittle of evidence, exclusive of those despicable forgeries, to prove that Mary Stewart had any knowledge of the murder of her husband.

perpetrator of that foul offence. Placards were affixed to the public places of Edinburgh, accusing Bothwell with others as the guilty persons. The Earl of Lennox, the father of Darnley, continually prayed for justice of the queen (*y*). The Privy Council, on the 28th of March, 1567, ordered the trial of Bothwell on the 12th of April following ; The Earl of Lennox was directed to attend, and all persons who had any knowledge of this business were warned to appear. The Earl of Lennox now declined to attend as the prosecutor, owing to whatever cause, after all his prayers. On the 12th of April was the court held by the Earl of Argyle, as Justice General, with four assistants (*z*). A jury consisting of nine Peers and other respectable gentlemen, were sworn to decide upon the guilt or innocence of Bothwell ; but, as there was no evidence given against him, he was unanimously acquitted. The whole proceedings evince that Bothwell's trial was collusive (*a*). Morton and the other ruling men of that period who knew Bothwell's guilt resolved to screen the criminal, because they were aware that he could reveal many secrets (*b*), and could be made the instrument of other crimes. The four assessors were the creatures of the Earl of Moray (*c*). On this conclusion of such a trial by his Peers, Bothwell appears to have assumed a higher degree of audacity amid an audacious baronage. Two days after his acquittal, when the Parliament assembled, Bothwell carried the royal sceptre, though not before the queen. He attended this parliament assiduously, wherein crimes were remitted and many ratifications were made. On the 19th of April several of the nobles disgraced themselves for ever by signing a declaration testifying the innocence of Bothwell, and recommending him as a husband to the

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(*y*) Keith, 372-3.

(*z*) The assessors were Robert Pitcairn, the commendator of Dunfermline, Lord Lindsay, who had been one of the assassins of Rizzio, James MacGill, who had also been guilty of the same offence, and Henry Balnaves, who had assisted at the assassination of Beaton, and had received a pension from Edward VI. After the acquittal of Bothwell, these four assessors went into England to accuse the queen of the murder of her husband by means of Bothwell. The Justice General had himself gone out into rebellion against the queen on account of her marriage with Darnley.

(*a*) Keith, 374-7.

(*b*) The Earl of Morton was afterwards convicted for that odious offence. Arnot's Crim. Law, 388. Archibald Douglas, the parson of Glasgow, the cousin of Morton, and his creature, was tried and collusively acquitted of the murder of Darnley. Ib., 7.

(*c*) Three days before the trial of Bothwell, Moray set out for France, with the queen's leave, probably, though not on her business ; calumny, indeed, remarked that this artful man always went out of the way when any signal mischief was in contemplation. Keith, 374.

queen (*d*). His ambition vaulted one step higher yet. On the 24th of the same month he arrested the queen at Almond-bridge on her return from Stirling to Edinburgh; he carried her forcibly to his castle of Dunbar; and he there boasted "that he would marry the queen, who would, or who would not; "yea, whether she would or no (*e*)." Sir James Melville, who had been carried with the queen to Dunbar, asserts "that she could not but marry "Bothwell, seeing he had lain with her against her will (*f*)." Bishop Leslie said in her defence, "that she yielded to *that*, to which those crafty, colluding, "seditious heads and the necessity of the time, as then to her seemed, did in a "manner enforce her (*g*)." When Mary married Bothwell on the 15th of May 1567, she fell into the snare which those *seditious heads* had been preparing for her, by the commission of so many crimes.

This necessary marriage of Mary was scarcely consummated, when public dissatisfaction appeared. A faction was immediately formed on the pretence of preserving the prince from the possession of Bothwell. The 12th of June 1567 is the epoch of civil war. The faction on that day issued from Edinburgh a proclamation, avowing the cause of their taking arms to be "to deliver the queen from the captivity of her husband; for preserving the prince; and for punishing the murderers of the late king (*h*). Both parties made hasty preparations for hostile collision: and an army soon collected around the queen. Mary and Bothwell marched from Dunbar towards Edinburgh: the faction advanced to meet them: and at Carberry-hill a battle was every moment expected, which was to decide the fate of a distracted country. But that princess, after a short communication with Kirkcaldy, who commanded an advanced party, agreed to quit Bothwell to join the associated Lords, by whose councils she was now willing to be directed, on the condition of their "respecting her "as their born princess and queen (*i*)." Bothwell left the field. She was

(*d*) Eight Bishops, nine Earls, among whom were Huntly, Argyle, and *Morton*, and seven Lords, subscribed that infamous declaration. Ib., 384.

(*e*) Ib., 383. (*f*) Ib., 384. (*g*) Id.

(*h*) Keith, 398-9. The chiefs of this faction were the Earls of Morton, Mar, and the Lords Home, Sempil, and Lindsay: we may remember that Morton and Lindsay had been active in procuring the collusive acquittal of Bothwell. When the French ambassador tried to reconcile this faction with the government, the Earl of Morton replied that they had not taken arms against the queen, but against the murderers of their late king; and if she would separate herself from her husband, they would readily continue their obedience. All this was said by the wretched chancellor, who was afterwards executed as one of the murderers of Darnley. Such were the *manners* and *morals* of reformed Scotland!

(*i*) Ib., 401-2.

conducted to Edinburgh in mournful triumph; where she was received with reproaches by the low and commiseration by the good. After the repose of a wretched day, she was committed a prisoner for life to the fortalice of Lochleven, which was kept by William Douglas, who had married the concubine of James V., the mother of the bastard Moray (*k*). Whatever pretences were still used by the associated Lords, it is apparent that they had finally resolved to dethrone the queen; and she was obliged by the brutality of Lord Lindsay, on the 24th of July 1567, to sign a formal resignation of her crown; which had thus been tarnished by so many afflictive incidents. She at the same time assented to the regency of Moray. After all those events and notwithstanding all those guards, Mary made her escape from that insulated castle, on the 2d of May 1568 (*l*). As she had many friends she was soon surrounded by an army. The queen and the regent now prepared for civil war. But the fortune and conduct of Moray prevailed at the battle of Langside, on the 13th of May, 1568; and Mary fled from the field of battle first to Kirkcudbright and afterwards across the Solway to Workington, in England, notwithstanding the remonstrances of those who foresaw that she would be received with insidious welcome by her cousin Elizabeth.

In the meantime, the infant James was crowned in the church of Stirling, on the 29th of July 1567. Moray was formally appointed regent; and with the aid of Elizabeth's intrigue and money, soon after arrived from France to assume the distracted rule of a harassed people. If he had acted with less harshness to individuals, he would have merited the praise of vigour; and he would have been more safe. The Parliament forfeited Bothwell and some of his instruments, for the murder of Darnley; and other persons of less note were executed for that odious offence: but, as the Chancellor Morton and his cousin Robert Douglas were both allowed to live and to rule, these circumstances evince that the scales of justice were still held by factious hands. These executions led on to the inquiries which were carried on in the subsequent year between Elizabeth and Moray for the disgrace of Mary (*m*). The

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(*k*) Ib., 403. Lord Lindsay and Lord Ruthven, two of the assassins of Rizzio, were the guilty persons who were employed to conduct Mary Stewart to her prison.

(*l*) Keith, 471.

(*m*) In Lodge's Illustrations, ii., 1-6, there is a most intelligent letter on the affairs of Scotland at that interesting moment, dated from York, the 22nd of October, 1568, from the Earl of Sussex to Sir W. Cecil: "This matter, says this wise man, must at lengthe take an end, ether by find-"ing the S. Quene gyltye of the crymes that be objected ageynst her, or by some manner of "composytyon w^t a shewe of savyng her honor. The fyrste I thynke wyll hardely be attempted letters and sonnets, the contracts and confessions before mentioned, were now formally produced in various shapes to overwhelm with infamy the Scottish queen (*n*). The historians who, in relating that insidious transaction allowed themselves to be deluded by such shallow artifices, have incurred lasting discredit. The regent returned to Scotland only to end his days amidst the violence in which he had lived (*o*). The Earl of Lennox, whose feebleness or folly had contributed to produce so much distraction, was appointed regent on the 27th of January, 1570, with Morton for his Lieutenant. A civil war soon began to produce its usual miseries. Two Parliaments sat within Edinburgh and its suburbs, and within Stirling and Edinburgh, which denounced each other; and the regent Lennox was surprised by his opponents and slain at Stirling on the 3rd of August, 1570. The Earl of Mar now succeeded to the regency, which his own weakness and the intrigues of Elizabeth induced him to relinquish, while he was hastening to his grave. On the 24th of November, 1572, Morton was, in his room, raised to the pre-eminence which he had committed so many crimes to obtain. The two factions of the queen and king divided an unhappy people into endless hostility. The castle of Edinburgh was held for the queen; and Elizabeth, seeing the prevalence of the queen's party, sent an army to Edinburgh which compelled the castle to surrender on the 29th of May, 1573, after a vigorous defence. Kirkcaldy, the governor, was executed (*p*); and a sort of calm ensued which only foreboded

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"for two causes: the one, for that yf her adverse partee accuse her of the murder, by producing her "letters, she will deny them, and accuse the moste of them of manifeste consent to the murder, "hardely to be denyed; so as, upon the tryall on both sydes, her profes wyll judycyally falle beste "owte, as it is thowght," &c.

(*n*) Moray, Morton, Lord Lindsay, and others, affirmed on their honours and consciences that those writings "were undoubtedly the said queen's proper handwrite." The *original declaration* is printed in Anderson's Col., ii., 259. But documents which appeared in such various shapes, sometimes as written by her and now subscribed, sometimes as superscribed and not superscribed, sometimes as written in Scottish and other whiles in French, no one could swear to be genuine without the imputation of perjury.

(*o*) He was shot in the streets of Linlithgow on the 26th of February, 1570, by Hamilton of Bothwell-haugh, whose wife had been expelled his house and driven to insanity by the harshness of Moray's measures.

(*p*) This man, a gallant soldier, had been concerned in all the hostile enterprises of that bloody age. He acted a part at the assassination of Beaton. He joined the factious Lords against the queen. He was the officer to whom she surrendered herself at Carberry-hill, on conditions which were immediately violated. He resented that violation, and was only pacified by the assurances of the Lords that they had intercepted a letter from the queen to Bothwell after her surrender, which evinced the most inordinate love for the murderer of Darnley. Yet Kirkcaldy re-other storms. A party of the baronage attached themselves to James even at the age of twelve. On the tenth of March, 1578, the king and his nobles seized the government. But Morton was not a man to be foiled by boyish politicians. On the 16th of April he surprised the Castle of Stirling wherein the king and his advisers resided. A sort of civil war now began between the king's friends and the regent's faction. But an accommodation between the contending parties was formed on the 14th of August. The sovereign now began to assume the government, though he was still overshadowed by the regent. Means were soon formed to remove Morton for ever, though he was supported by the intrigues of Elizabeth. He was accused of being one of the murderers of Darnley, he was found guilty on sufficient evidence by his Peers, and he confessed his guilt at the block when he was executed on the 2nd of June, 1581 ; he was the last of the four regents who had thus perished untimely, and he was perhaps the most artful of the unprincipled men who had involved their country in so many miseries. Yet there remained other nobles who, as they had been bred in the same school and were incited by the same patroness, disquieted James by their intrigues and disgraced their country by their crimes. In August, 1582, the Earl of Gowrie detained the king's person on the factious pretence of removing the Earl of Lennox from the king's presence. Lennox retired to France, the king made his escape from thraldom, and Gowrie, continuing his rebellious practices under the influence of Elizabeth, was executed on the 4th of May, 1584. The year 1587 will be always remembered for the sacrifice of Mary Stewart to the guilty passions of Elizabeth under the form of law (*q*). James tried to save his mother's life, but he was betrayed by those in whom he put his trust. The nobles continued to contend with each other, and the king used in vain all the arts of reconcilement, while the insidiousness of the neighbouring sovereign constantly incited their animosity. Elizabeth essayed to embarrass the marriage of James, as she had

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tained a secret attachment to her cause. He was appointed by Moray the governor of the Castle of Edinburgh, which he defended now with such obstinate skill as to require the army of Elizabeth to subdue it ; and like other chiefs of those corrupt times he ended his guilty career by public execution.

(*q*) The whole question of Mary Stewart, touching her treatment in England, is very fully discussed by Mr. Ward in his "Enquiry into the Law of Nations," ii., 564-99. He shows clearly that she was detained from the first *as an enemy*, but as a real sovereign, whence he concludes that this detention was a *direct act of hostility* of Elizabeth against Mary. He goes on to state that "the conclusion of this celebrated affair was equally unjust on the part of the English with its commencement," and infers from the whole circumstances "that her death at best perhaps can only be called a legal murder."

opposed the nuptials of his mother, but he easily leaped over all those obstacles by an effort of gallantry, of which he was supposed incapable; and on the 22nd of October, 1589, he sailed to Denmark, where he married Anne, the daughter of Frederick II., in the sixteenth year of her age. Yet domestic peace was not restored. The nobles now contended about religion; while the reformed clergy assumed the popish privilege of dictating to the consciences of men, and domineering in the affairs of state. They were supported in such absurd pretensions by popular tumult; and the three estates at length interposed, and by wise regulations, placed the ecclesiastical under the civil power. The year 1600 is memorable for what has been called the mysterious conspiracy of the younger Gowrie. But the refinement of history has merely created difficulties, where the fact, as it has been attested by thirty witnesses, does not admit of the question, "*whether this were a plot of Gowrie against the king; or of the king against Gowrie?*" The experience of forty years exhibits so many conspiracies of the nobles against their prince, and not one plot of the prince against the nobles, that the probability would decide in favour of James against Gowrie, if there were no evidence upon the point; but the most satisfactory proofs have been produced, which establish a simple fact that is altogether consistent with probability and experience (*r*). Amid such conspiracies James

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(*r*) The Earl of Cromartie, in 1713, published "an historical account of the conspiracies of "the Earls of Gowrie, with *the Depositions from the Record.*" Mr. Arnot printed, in 1785, the trial of John Earl of Gowrie, and of Alexander Ruthven, in his Criminal Trials, 20. The fact, as it is attested by *those depositions* and *this trial,* simply was: On the 5th of August, 1600, at seven in the morning, while the king was about to mount his horse, with design to hunt in Falkland park, Alexander Ruthven, the brother of the Earl of Gowrie, spoke familiarly with James. After the hunt was over, the king desired the Duke of Lennox to accompany him to the Earl of Gowrie's, at Perth, telling him that Alexander Ruthven had invited him to get some *hidden treasure,* but willed the Duke to have an eye on himself, and to follow him wherever he went with Alexander Ruthven. When they arrived it was observed that Gowrie's servants were armed. After the king had dined Ruthven carried him to the uppermost part of the house, and attempted to make the king a prisoner and to bind his hands; but the king resisted and called out treason from the window. Sir John Ramsay, who carried the king's hawk, first entered the chamber, where he saw Alexander Ruthven struggling with the king. He soon dispatched this person; and the Earl of Gowrie, entering with a sword in each hand, followed by armed men, after a short conflict, was mortally wounded by Sir John Ramsay. Such are the facts as they were attested by the oaths of twenty respectable witnesses. Where, then, is the difficulty? The same ecclesiastics who voted the treasonable conspiracy of Gowrie's father, in 1582, *to be an acceptable service to God,* would not believe those oaths, and discredited the king's declaration. But what motive had Gowrie to act thus? The answer must be, the same motive that his father had in 1582, and other conspirators had, on a dozen occasions, to seize the king's person, in order waited patiently for the demise of Elizabeth, which he knew from his *private correspondence* would certainly transfer to him her crown. This event happened on the 19th of March, 1603, when he was immediately proclaimed, and soon was seated on the throne of England.

It may be convenient at this epoch to take a slight review of the times that have just elapsed. (1.) The *period* of the *Reformation*, as we have seen, may be deemed *the period* of *crimes*. The people was reformed from papistry to protestantism, yet was there no reform in their morals ; about religion there was much declamation, but on life and manners religion seems to have had little influence, if we may judge from the facts of those revolutionary annals. Conspiracy followed conspiracy, and crime induced crime, in quick succession (*s*). History evinces that every great revolution produces the most unhappy influences on the human character ; and it is certain from the annals of the reform in Scotland, that the civil conflicts of those times left a very sharp edge upon the people's spirits (*t*). (2.) We have already seen that the reformers were more studious to pull down than to build. The whole estates of the ancient church were appropriated by the nobles before any establishment could be made for the reformed clergy (*u*). Laws for promoting and securing the reformation were extremely multiplied upon every topic, except a provision for the ministers (*x*). (3.) The church judicatories and the

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to govern in his name. The dispatches of Nicolson, the English agent at Edinburgh, which remain in the Paper-Office, show clearly that Elizabeth had not any concern in this conspiracy. The truth seems at length to have driven the lovers of scepticism into *a new theory* in respect to the motives of Alexander Ruthven and Gowrie. It is said that King James's wife, who was an intriguer at least in the whispers of calumny, intrigued with Alexander Ruthven, in order to gratify her guilty passions. It was forgotten, when *that theory* was adopted, that the queen was delivered of Charles I. on the 20th of November, 1600, three months after Ruthven had inveigled James to Perth. It would require *proofs of holy writ* to establish such a theory in opposition to such an improbability. Yet there is no other evidence but the calumnies of the times, which are brought forward now to puzzle a plain question.

(*s*) We may see in Birrel's Diary an execution at Edinburgh every day for some of the most odious crimes ; such executions, indeed, as those of Morton and of Gowrie did not daily occur.

(*t*) It became necessary, in some measure, to disarm the people : a law was made against bearing, wearing, or shooting of culverings and dags. 6 Parl. Ja. VI., 87. We may see some other laws in the statute-book of a similar tendency : such as the act against single combats. 16 Parl. Ja. VI., 12 ; and the law for extinguishing *deadly feuds* or family conflicts.

(*u*) In March, 1596, it was calculated that of the 900 churches in Scotland, there were then 400 without ministers or readers : that is at the end of forty years, after the Reformation began. Birrel's Diary.

(*x*) See the statutes of King James and his Regents throughout, and the remonstrances of the clergy in their assemblies.

reformed clergy took the place, and assumed the practices of the papal establishments and their popish functionaries (*y*). The ministers censured from the pulpit James's conduct; they disputed his authority; they promoted tumults through the land; and the King and Parliament found it necessary to enact a variety of laws, for enforcing the submission of the ecclesiastical to the civil power (*z*); and some of the clergy continuing contumacious, the King expelled them his kingdom, though he incurred popular odium, In 1580 the clergy in a convention at Dundee, abolished episcopacy. The King opposed them with a counter declaration, and in 1597, the Parliament passed a law which enacted that, "ministers provided to prelacy should have a place in the *three* "*estates* (*a*)." We may here see the beginning of contests on this topic, which led on to very fatal consequences. (4.) In the humour of *a church* which was scarcely formed, to erect its assumptions upon the ruins of the state, it became necessary to interpose some barriers to such pretensions. In 1584 the Parliament declared that the honour, authority, and dignity, of the *Estates* shall stand and continue in their ancient integrity, supreme over all things, and all persons (*b*). This affirmation was supported by an adequate penalty. It was declared to be treason to call in question, or to diminish the power of *the three estates*. All other conventions or assemblies pretending to meet without the King's authority, were denounced as illegal. What was thus declared, as to the supreme power of the state amidst the ravings of anarchy, were only new affirmations of the ancient law. Those wise provisions were followed by a whole code respecting the constituent members, the mode of sitting, and the authority of the *three estates* (*c*). (5.) As a new power had arisen not so much in the

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(*y*) In 1566, the *actis* and *constitutionis*, during the reigns of the five Jameses and Mary, were printed by authority. A late professor of law has said, in his *View of the Constitution*, that those *Black Acts* were interpolated; and has charged King James with the interpolation, in order to facilitate his innovations on the constitution. But the fact is that the *Black Acts* are not *interpolated*, they are only *castrated*. The late lamented Duke of Roxburgh, by collating the several editions of the Black Acts, established that curious fact. His Grace caused those castrations to be reprinted, consisting of eleven acts of James V., and one of Mary, in support of the *halie kirk*. It was the edition of the Black Acts dated on the 28th of November, 1566, and not the edition dated on the 12th of October, 1566, which was castrated: and it was the reformers who thus vitiated the statute-book, in order to purge it of a dozen acts which were inconsistent with their notions of reform. Now, the learned professor before mentioned did not recollect that King James VI. was born on the 19th of June, 1566, and of course was lying in his cradle when those castrations were made by reforming hands.

(*z*) 8 Parl. Ja. VI., 129, 131; Sir Geo. Mackenzie's Observ. on the Stat., 8 Ja., p. 207-12.

(*a*) 15 Parl. Ja. VI., 235.

(*b*) 8 Parl. Ja. VI., 130.

(*c*) 11 Parl. Ja. VI., 33. "Anent the Parliament," this act recites that "the King being state as in the church, to dispute the King's *legal capacity*, the Parliament in its zeal acknowledged his royal prerogative, and privilege of his crown over all estates, persons, and causes (*d*). The three estates engaged to maintain with their lives, lands, and goods, the royal prerogative, and privilege of the crown (*e*). ; and they even did more amidst the treasonous practices of the times, by providing a standing guard for the King's person. (6.) The *judicial* power of the state acquired an useful improvement for the happiness of the people when *the College of Justice* was established (*f*). Yet, if the senators could not act, without question by individuals, justice held her scales in vain. Amidst the wildness and irascibility of those times, some of the judges had been thus questioned, and the Parliament interposed between justice and wrong, by declaring that whoever should challenge a senator for his opinion, should be punished with death (*g*). (7.) During Gaelic times, there existed in every part of North-Britain, clanship from blood. Throughout the whole Scoto-Saxon period, as we have seen, there existed from conquest and birth, universal villeynage, which disappeared during the fifteenth century. Amidst the anarchy of subsequent times, there arose various clans which were divided in the policy of those ages, into the clans of *the borders* and the clans of *the highlands* (*h*). From this state of society and the want of employment, we may

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" now of full age, and considering the decay of the form, honour, and majesty of his supreme court " of Parliament, by occasion of the troubles that had occurred since the decease of James V.; and " being willing to restore the same to the ancient order, dignity, and integrity," &c.

(*d*) 18 Parl. Ja. VI., 1.

(*e*) Sir Geo. Mackenzie observes that this act first mentions the word *prerogative*, which was formerly called *the privilege of the crown*: and therefore this act mentions both the *old* and the *new words*. Observ. on the Acts of Parl., 319.

(*f*) When Mary Stewart was dethroned and imprisoned, the Court of Session fled from Edinburgh: and on the 21st June, 1567, the rebel Lords, who on this occasion for the first time assumed the title of *the Lords of Secret Council*, required the Lords of Session, the Advocates, and Solicitors to repair to Edinburgh and to proceed in the administration of justice, with an assurance of safety, and with a threat that if they should continue to absent themselves they should be deemed partakers with the authors of the king's murder. Keith, 406. But the dethronement of the queen had dissolved the commissions of the Judges!

(*g*) 16 Parl. Ja. VI., 4: Sir Geo. Mackenzie's Observ., 310. Previous to this act, several judges had been assassinated; and as late as 1689, Sir George Lockhart, the President of the Session, was deliberately murdered by John Chislie, for what he had done as a judge. Arnot's Crim. Trials, 150-5.

(*h*) There were seventeen clans on the borders, and four-and-thirty in several other parts of Scotland. There is a *roll* of those clans annexed to the stat. 11 Ja. VI., 95, which endeavoured to regulate them, since they could not be prevented.

account for the facility with which great bodies of men could then be brought into action. In 1587, the chiefs of all those clans were obliged to give sureties for their quiet conduct, and were made answerable for their wrongs (*i*). The union of the two crowns dissolved the clans and established the quiet of the borders: several of the other clans remained to our own times, often disturbing domestic tranquility and sometimes defying the mandates of law.

IV. The effluxion of time from the union of the crowns to the union of the nations, may be considered as an energetic period of civil wars and singular revolutions. The demise of Elizabeth left her throne for King James, at the age of thirty-seven, to ascend amidst the acclamations of his subjects as well the Scots as the English. An unusual calm ensued within his ancient kingdom. The spirit of the nobles seems to have been somewhat broken, or was perhaps turned to more distant views of ambition, and other objects of pursuit. There were seven Parliaments called by James after his accession, wherein he presided by a commissioner. This was a new officer in the state, which a new situation of things required. The statute-book attests how many laws were made, always with good intentions, though not always with the best effects. There was passed a law in 1606, for the *restitution of the estate of Bishops*, which the King declared he had never intended to suppress. This restoration was followed by a great variety of laws for giving proper effect to the general principle. The estate of the Bishops was not however restored to the peoples' confidence. There were many laws enacted for promoting domestic œconomy. When we see the playing at *cards* and *dice* prevented, and horse races prohibited, we may infer that puritanism began to supersede fanaticism. James did not long survive his visit to his native kingdom: he died on the 27th of March 1625, after governing Scotland with more authority and success during two-and-twenty years absence, than while he was present admits the effervescence of popular delusion.

He was immediately succeeded by his son, Charles I., in the twenty-fifth year of his age. Ten years of quiet, perhaps of prosperity, were succeeded by frequent perturbations. The King returned after a long absence, in 1633, to be crowned and to hold a parliament. With ample power and high prerogatives, he possessed no influence, having nothing to bestow. Yet was the Parliament as servile and submissive as any of their predecessors. Among many laws of a salutary tendency, they passed an act resuming to the crown those lands which the baronage had wrested from the church: though the

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(*i*) See the Stat. of the 11th Parl. Ja. VI.

end of this resumption was useful, yet was the effects most afflictive (*k*): the clergy were thus benefited, the people were relieved, but the Barons were offended. In the midst of those dissatisfactions, the King introduced a book of canons and a new liturgy. These were the signals of insurrection in the capital and discontent throughont the kingdom; it being supposed that such innovations were preparatory to the restoration of Popery. The year 1637 may be considered as the epoch of a civil war, which lasted, with short intermissions, during fifty years. It is in vain to impute to the weakness or the violence of Charles I., the guilt of so much bloodshed and devastation: such a multiplication of miseries could not have been continued, or indeed begun, on such frivolous pretences, if the baronage had not been factious, the clergy pragmatic, and the people fanatical. The contentions in England for civil liberty, and the reclamations in Scotland for religious prejudices, added fuel to the flames of each other. Long before Charles I. had fallen, in 1649, a sacrifice to the furious conflict of political and religious discord, North-Britain had become completely exhausted by her own efforts of mischief.

The Scots, after selling Charles I. (*l*), proclaimed his son; wanting a pageant rather than a magistrate. The English Parliament declared war against them. Cromwell passed the Tweed on the 22d of July 1650. He defeated them at Dunbar, owing more to the madness of the ministers than to any want of skill in the generals or bravery in the men. The King marched into England: and at Worcester, on the 3d of September 1651, met the fate which his despair had prompted and his rashness had merited. Scotland was now conquered; and in April 1652, by an ordinance of the English Parliament, it was incorporated into one commonwealth with England, in whose fortunes whether happy or fortunate it now partook.

The restoration of Charles II. to the throne of his ancestors in England, was followed by his restoration in Scotland. When he sent a mandate from London, dissolving the government which had given them some years quiet, there was none to dispute his authority; so great a change had the revolutions and bloodshed of twenty years made in men's minds (*m*). The Parliament

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(*k*) One of the greatest lawyers of the age, Sir Thomas Hope, the King's Advocate, drew that act of resumption, and was answerable to his country for all its effects.

(*l*) The Three Estates after the Restoration declared this "to have been done by a prevalent party against the judgment of the loyal subjects," and they expressed their abhorrence and detestation of it. 1 Parl., ch. ii., 10.

(*m*) After the Restoration the Three Estates speak feelingly of "the sad condition, slavery, and "bondage this ancient kingdom hath groaned under during these twenty-three years troubles." Act for a Thanksgiving for the Restoration, 1 Cha. II., 17.

assembled under the Earl of Middleton, the King's commissioner, on the 1st of January, 1661. Much of what had been done during those three-and-twenty years of trouble and bondage was now rescinded. The power of Parliament, the King's prerogative, the judicial power of the College of Justice, were acknowledged in warm terms of animated loyalty. Yet nothing on those heads was declared to be constitutional law now which had not been the known law before the accession of Robert Bruce. The King declared in Parliament his resolution to maintain the true reformed Protestant religion as it had been established during the reign of his father and grandfather; intimating, however, that he would restore the Episcopal government though he allowed, meanwhile, the administration of Sessions, Presbyteries, and Synods. The measures which were then adopted for promoting domestic economy were of full as much importance, as they tended to turn the hearts and hands of the people to some useful employments (*n*). The three estates, amidst the effervescence of their loyalty, settled on the King an annuity of £40,000 sterling during his life. This is a clear proof how much the Scottish people had been exhausted by their three-and-twenty years troubles. There were but few sacrifices offered to the manes of the dead. Yet amidst this unanimous loyalty there still existed several bodies of men who, as they were actuated by their old fanaticism, refused obedience to the King, to the legislature, to the laws, or to any power under heaven; hence proceeded plots, privy conspiracy, and rebellion. As the people were irascible and disobedient, the government was severe, perhaps tyrannous (*o*).

The demise of Charles II. on the 6th of February, 1685, transferred his feverish administration to his brother James II. He professed his intention to support the government in Church and State as by law established; yet, without adverting to the experience of his father, he immediately adopted the

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(*n*) There were acts passed for the promoting of fisheries, for erecting manufactories, for planting and enclosing ground, for the making of linen and stuffs, for encouraging shipping, for making soap-works, and there were some subsidiary laws passed for preventing the export of raw materials, and prohibiting the import of manufactured articles. The interest of money was reduced from eight to six in the hundred.

(*o*) In the London Gazette of the 25th of December, 1665, there is the following article from Edinburgh by authority: Six heads were set up on the gallows betwixt Leith and Edinburgh, for a murder committed on the Laird of Mull and his brother, led on by one Alester Mackeil, one of the Laird's own vassals. The offenders being required to come over [from the Isle of Mull] and make answer to the accusation, slighted the charge, whereupon the [Privy] Council ordered the clan that lived near them to take arms and to bring over their heads, which accordingly was performed. This Alester and his comrades killed and wounded eighty men before they were taken. Thus far the Gazette! This proceeding was legal, but this is a complete example of the Turkish government.

imprudent ambition of converting his people to the Catholic religion. He was encouraged in such imprudence by the servility of the Scottish Parliament who seemed willing to invest him with absolute power. The late turbulence of the people now began to run in a contrary direction; and when Argyle invaded his country in order to overturn a violent, not to say illegal government, he found few to support his dangerous enterprize. This success did not contribute to inspire the King with more prudence and less precipitation. Yet, when James applied to Parliament for an indulgence to his Catholic subjects, that assembly, however complaisant as to their civil liberties, resolved to adhere to their religious principles. As the Parliament thus refused their concurrence, that imprudent prince had undisguised recourse to his prerogative for effecting an illegal change in the religious establishment. Universal discontent was the result of this disgustful measure. When the people of Scotland heard of the landing of the Prince of Orange, and read his declaration in favour of liberty and in support of law, they concurred zealously in the passions which, by those events, had been excited in England. The nobles began to intrigue. The populace broke out into insurrection at Edinburgh to which zealots flocked from every shire. The Earl of Perth, the Chancellor, a new convert, imitating the pusilanimity and distraction of his master, now deserted his charge; and the Privy Council, which was noted equally for its servility to the Sovereign and harshness to the people, on this occasion made their application to the Prince of Orange, to whom every one looked up as the timeful saviour of the two nations. This able Prince finding in London several of the Scottish nobles and gentry, asked their advice on their distracted affairs. Without much debate, they offered to the Prince the provisional government of their country. He now sent out circular letters, summoning a convention at Edinburgh, on the 22nd of March 1689. We may easily suppose, that the most zealous and active of the constituent members, would attend on such an emergency. In England at *the Revolution,* it was of great importance to the security of the constitution and the quiet of the country, that the two great parties into which the nation was divided, were so equally balanced; but in Scotland, the members of the convention were all of one party, and were all actuated by a strong sense of their recent wrongs. After a slight opposition, they boldly decided that King James, by his abuse of power, had *forfeited* the right to the crown, and immediately declared the Prince and Princess of Orange, to be King and Queen of Scotland (*p*). This act, which

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(*p*) The Revolution in England is said to have been conducted constitutionally by the English involved such mighty consequences was attended by a declaration of their wrongs and their rights. Former insurrections, though accompanied by many mischiefs, passed away without any advantage to the nation. The Revolution of 1689 brought with it a civil war, indeed, but was the means of strengthening the constitution, of preserving public liberty, and securing private rights. The Presbyterian Church was now erected on the ruins of Episcopacy. The prerogative was restrained to its proper functions, yet the administration retained much of its ancient harshness, and much remained to be done for giving efficacy to law and affording safety to property and persons. This revolution was also followed by much salutary legislation for promoting domestic economy. The civil war, though sharp, did not last long; but the foreign war with France continued till 1696, when it was closed by the peace of Ryswick, which supposed by its silence, that the Scottish people had no ancient rights in France to be maintained.

The demise of William in 1702, transferred the crowns of the two nations to Queen Anne. She wrote to the Scottish Privy Councillors, authorizing them to continue their authority, and assuring them that she would support the established government; and the same Parliament which had established the Revolution, continued to act on the accession of Anne, though not without protestations of its illegality. They passed an act for treating of an union with England which they annulled in the subsequent year. The spirit of division seems to have overspread the land. In 1703 the Parliament refused to tolerate Episcopacy; and they declined to concur in adopting the protestant succession for their crown. They carried their ill-humour, not to say their illegality, one step further. They questioned the power of the Queen, the successor of David I., to negative their bills. They issued a declaration which intimated a purpose, in case of the demise of the crown to appoint a different sovereign from the English king; and both the contiguous nations passed hostile laws and made slight preparations for renewing ancient warfare. Such were the movements which led to the appointment of commissioners to treat of an union between the sister kingdoms (*a*). An *incorporate union* was

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Parliament, but the Revolution in Scotland by the Scottish convention to have been performed unconstitutionally. Ward's Inquiry into the Law of Nations, ii., 513. The English found *a vacancy of the throne,* which they supplied; the Scots *made the vacancy,* which they filled. This may be considered as characteristic of the two nations: the one more grave, the other more vehement; the one regarding forms, the other disregarding law.

(*a*) The commissioners for the union met on the 19th of April, and signed the articles on the 22nd of July, 1706.

at length agreed upon between England and Scotland, which thereafter were to form one kingdom by the name of *Great Britain.* The two nations were to have in future the same sovereign. There was to be but *one legislative authority,* consisting of the Parliament of Great Britain. The *judicial power* was to continue separate; and there were concerted various regulations of domestic economy for identifying the industrious pursuits of the two people, and for promoting their commercial benefits (*b*). When we look back upon the frequent collisions of the two kingdoms, this may be deemed one of the most fortunate events in their annals, whether we regard the happiness of the people or the power of the state.

Of the *accession period* a *short retrospect* may be given under the following heads. (1.) The Peerage of Scotland during this busy and factious effluxion of a century, was considerably augmented in numbers, though not in respectability (*c*). (2.) The great body of the people gained nothing in numerosity or in morals, they sunk into the lowest fanaticism, and in proportion as they resigned themselves to the guidance of this passion they became ungovernable; and being disobedient to all law, the magistrate thought himself obliged to treat them as inanimate slaves, rather than as rational freemen. (3.) The Parliament, consisting of three estates within one chamber, with their *Lords of Articles,* never well performed the useful ends of wise legislation. Acting sometimes sycophantic and often pragmatical, the constitutent members seem to have had but very imperfect notions of liberty, as the happy result of law. When the convention of 1689 declared the king to have *forfeited the crown,* those zealous conventionists wounded the constitution which they meant to strengthen: when the Parliament of 1703 denied the right of the crown to assent or dissent to parliamentary legislation, they laid the axe to the main branch of the constitution; and the freeing of the people of Scotland from their parliament was one of the important objects which were obtained by the Union. (4.) During the five-and-forty years which elapsed from the epoch of the Reformation to

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(*b*) 5 Anne, ch. viii. There had been two attempts formerly made to obtain a union between Scotland and England, one in 1604 and another in 1670. The English Parliament in 1604 thought the objections insuperable; in 1670 the Scottish lawyers deemed the constitutional arguments against an *incorporate union* unanswerable. Sir Geo. Mackenzie's Observ. on the Stat., 315. King William recommended to the Scottish convention a union in his first communication; the Scottish convention in answer prayed the King "to dispose England to the same purpose."

(*c*) At the ranking of the Scottish Peers in 1606, the consisted of 1 Duke, 2 Marquises, 24 Earls, and 37 Lords, in all 64; at the epoch of the Union in 1706, the Scottish Peers consisted of 10 Dukes, 3 Marquises, 74 Earls, 17 Viscounts, and 49 Lords, in all 153, so that there had been an augmentation during this period of 89, consisting of 9 Dukes, 2 Marquises, 50 earls, 17 Viscounts, and 12 Lords. Carmichael's Tracts, 38-160.

the era of the accession, the Scotican church lay in a ruinous state (*d*). After the establishment of the presbyterian forms in 1560, throughout the reign of James VI., this church may be said to have existed in a feverish state. Had it been more moderate in its aims and more moral in its effects, it would have been more secure and more useful; but it domineered over the state, while it very little enlightened the understandings, and still less meliorated the habits of the people. It triumphed, however, in 1638 ; it was abolished in 1662 ; it was re-established with its intolerance in 1689 ; and it was finally settled at the Union, as it was generally desired by the people. (5.) At the revival of learning, the Scots entered with ardour into the study of letters. Poetry blazed out with extraordinary lustre at the same interesting epoch. But the Reformation turned the pursuits of the students into less congenial inquiries; and the voice of the muses were no more heard amid the crash of churches, and the frequent tumults of civil conflicts. The accession of King James induced a languor upon the spirits of the Scottish people, which was not very favourable to the revival of learning. Every elegant, every rational, every useful study, was extinguished by the long and wasteful wars which erewhile ensued, at the same time that the finer spirits of men were completely debased by religious frenzy. Charles II. tried to revive the long lost learning of the Scottish people. He established the office of *royal historiographer,* to illustrate the antiquities and to cultivate the history of his ancient kingdom, with a retrospective glance, perhaps, to the fictitious, if not factious narratives of Buchanan. He appointed a royal topographer, to ascertain local facts and to investigate natural knowledge; but the lassitude of some and the fanaticism of others, prevented any beneficial result from either of those institutions. (6.) After the plunder of the Scotican church, rapacity scarcely left enough to King James, not to exhibit the splendours of royalty, but to support the decencies of life (*e*). The civil wars of the seventeenth century wasted equally the fiscal of the Exchequer and the fortunes of individuals (*f*). The annuity which the loyalty of

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(*d*) At the Reformation the Bishops were denuded of their benefices, and deprived of their functions, yet were deemed by King James as fit Lords of Parliament. Episcopacy may be said to have been re-established in 1606. It was superseded in 1638. It was again established in 1662 ; and it was finally abolished in 1689.

(*e*) During the latter part of Elizabeth's reign, King James received from her pretty large sums of money, either as gratuities or a pension. MS. in the Paper Office.

(*f*) The subjoined Notes, from Tucker's MS. in the Advocates Library, exhibit a lamentable view of the domestic state of Scotland during the year 1656, that is, under Cromwell's usurpation.

The whole shipping of Scotland consisted of 93 vessels, carrying 2724 tons ; with 18 barks.

this kingdom settled on Charles II., was scarcely equal to the rent-rolls of some of the baronage, or the profits of some of the traders during the happier influences of late times : yet, does it attest the penury of a people, whose attentions had been turned, during a century, to the unreal pursuit of religious frenzy. The Parliament endeavoured, indeed, with some solicitude, to turn the ardour of the people to more enriching occupations. But whoever has the habits of industry to learn, and his connections to form, cannot soon expect the benefits of wealth. The Parliament, indeed, established in 1695, *the Bank of Scotland.* Yet, a people must have made some progress in agriculture and manufacture, in the adventures of traffic and in the practice of circulation, before *a bank* can give them the facilities of credit, and the advantages of capital (*g*). In the midst of this domestic debility, the nation formed a company for colonizing *Darien;* expecting wealth from foreign adventures, before industry had taken deep root in their native land. But, the government of King William opposed them at Hamburg and Jamaica ; as neither prejudice nor hate foresaw that the jealousy of the Spaniards, and the damps of the climate, would destroy the hopes of visionaries without exciting the indignation of disappointment.

V. The period of *the Union* will be found to contain great events and salutary effects, though that measure was not at once completed, nor were those effects immediately felt. With that epoch, the history of the decline and fall of Scotland is supposed to have been accomplished : it is a much more pleasing task to give

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The whole customs on imports and exports were - - - -	£5,847	0	0
The whole excise on imports and sale of goods, - - - - -	6,783	0	0
The excise on ale, spirits, and salt, - - - - - -	36,414	0	0
	£39,044	0	0

During that era, lands were commonly sold in Ireland at two years purchase, as we learn from Sir William Petty. In Kirkcudbright Stewartry, farms were offered during the same age, by advertisement, to good tenants without any rent. Below this the value of lands could not easily fall. Miserable must be the condition of any country which finds solace in conquest.

(*g*) The nominal stock of the Bank of Scotland was £100,000 Sterling ; but £30,000 were found to be a capital quite sufficient at that epoch for transacting the banking business of North-Britain. On the 9th of April, 1696, branches were planted at Dundee, Aberdeen, Glasgow, and Montrose. Yet, the Directors soon finding that the profit of those subordinate banks were unequal to the charges, recalled those establishments. On the 24th of December, 1696, from Aberdeen, and Montrose ; from Glasgow, on the 2nd of January, 1697 ; and from Dundee, on the 6th of October, 1698. Record of the Bank. What a wretched picture of commercial debility ! none of those towns could employ a bank on the smallest scale, and £30,000 was a sufficient capital for a national bank.

an historical sketch of her resuscitation and prosperity. The regulations of trade under new circumstances are supposed to have repressed the desires and the efforts of foreign commerce. The fact is that the Scottish people were not in a condition to derive much benefit from the advantages which were held up to their anxious eyes; they wanted habits of industry, they had few connections of business, they had scarcely any commercial capital, and although they had a bank they had hardly any paper credit. The ratification of the Union, indeed, calmed their troubled spirits, yet did they feel for some time the debility which is the usual consequence of every uncommon effort. Nor were they roused by the artifices of faction after their Parliament had adjourned, for ever, on the 25th of March, 1707. Every measure was essayed to give fair effect to the Union (*h*). The people of Scotland now partook of all the privileges of trade which the inhabitants of England enjoyed. Of North-Britain, the traffic of coal was facilitated, the linen manufacture was promoted, the fishing was regulated, and in 1713 the interest of money, which in Scotland seems always to have kept pace with that of England, was reduced from six in the hundred, at the epoch of the Union, to five (*i*). The coins which circulated in Scotland were recoined with the aid of *the Bank* to a greater amount than had been supposed to exist (*k*); and in 1711 the Post Office, which is so commodious to the country and as a mode of revenue so easy, was extended to Scotland. The statesmen of that reign seem to have been diligent to render the Union which have been left imperfect still more complete. On the 1st of May, 1708, one Privy Council was settled for the

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(*h*) In respect to the trade of Scotland with England, the Commissioners of Customs represented various points which required consideration, and which were referred to the law officers of the Crown, who gave their sense of every article to the Lord High Treasurer Godolphin. MS. Report, dated the 5th of May, 1707. He immediately ordered their opinion to be adopted and carried into practice. A commission for the management of the equivalent, amounting to £398,085 10s. 0d., which was to be paid to Scotland, was at the same time issued. MS. Commission.

(*i*) 12 An., xvi. The comparative state which is subjoined of the rate of interest for money in England and Scotland at successive eras, will illustrate the observation in the text.

In 1571, settled at 10 per Cent.	In 1587, at 10 per Cent.
1624, reduced to 8 per Cent.	1633, to 8 per Cent.
1651, 1660, } reduced to 6 per Cent.	1649, 1661, } reduced to 6 per Cent.

(*k*) The sum which was actually brought to the Mint was £411,117 10s. 9d.; but Ruddiman supposed, from various circumstances, that the whole circulating coin in gold and silver amounted to £900,000. Pref. to the Diplom. Scotiæ; Anderson's Chron. Com., ii., 245.

United Kingdom. The useful institution of Justices of the Peace was extended to Scotland (*l*). The *Circuit Courts*, which brought justice into every district, were regulated. The English laws of treason were communicated to the Scottish people, and it was declared that no person who was accused of any crime should be subjected to torture (*m*). An act of general pardon was passed (*n*). Those various measures were undoubtedly considerable improvements. In addition to all those ameliorations some ecclesiastical measures were adopted, perhaps with equal success, though they were opposed by the church judicatories. Episcopal congregations were protected as legal, and it was declared that no forfeiture should be incurred in consequence of any ecclesiastical censure (*o*). The right of patronages was restored to those who were supposed to represent the original founders of the several churches (*p*). In order to give effect to all those measures a secretary of state for Scotland was appointed, who was soon found to be of less use than had originally been conceived. Yet was it believed by those who lived in those eventful and factious times that much remained to be done for making the Union complete by freeing Scotland from ancient abuses (*q*).

The demise of Queen Anne on the 1st of August, 1714, transferred under the act of settlement the united crown to George I. The early measures of the new reign were dictated by extreme violence; and this impolicy produced disaffection in England and rebellion in Scotland. A few months of the year 1715 saw the rebellion suppressed. Forfeitures follow in its train; and the jurisdictions, which were thus transferred from the ancient proprietors who had only used them for selfish purposes, were annexed to the crown. The spirits of men during those party conflicts were still greatly embittered (*r*);

(*l*) 6 Anne, ch. vi. (*m*) 7 Anne, ch. xxi. (*n*) 7 Anne, ch. xxii.

(*o*) 10 Anne, ch. vii. In 1712 the assembly of the church addressed the Queen against a *boundless toleration* which was supposed by the addressers *to be beyond the power of Parliament to establish.* (*p*) 7 Anne, ch. xii.

(*q*) There are many memorials to this effect in the Paper Office. There is a list in the Paper-Office, dated the 6th of November, 1724, of the several Sheriffs and Stewarts of Scotland under three distinct heads. Of the whole 33, there were During pleasure - - - - 9
For life, and lives - - - - 4
Hereditary - - - - - 20

(*r*) The Earl of Islay, whose addresses and firmness greatly contributed to suppress the rebellion of 1715, wrote the Secretary of State, from Edinburgh, on the 29th of September, 1715: "There has "happened an accident which will suspend the Justice Clerk's fury against me, for he and the King's "Advocate have had *a corporal dispute*, I mean literally, for I parted them." This letter is in the Paper-Office. Adam Cockburn of Ormiston was Lord Justice Clerk from 1707 to 1735. Sir David Dalrymple was Lord Advocate from 1707 to 1720.

and the year 1718 was marked by the issue of a commission of vengeance, when the terrors of insurrection had ceased. Commissioners of Oyer and Terminer sat at Perth, Dundee, at the shire town of Fife, and at Kelso on the Tweed, to inquire into the treasons which had been committed in 1715; but the firmness of the grand juries in negativing the presentments, taught their rulers the wisdom of forbearance, after justice had had her sacrifices (*s*). In the subsequent year there was an invasion of North-Britain, by a small number of attainted nobles, on the western coast of Ross-shire, which was soon repulsed. The Parliament in 1725 enacted that the Highlanders should be disarmed, and this delicate operation was performed with the mildness and discretion, which were characteristic of General Wade. But insurgents of a very different sort soon came upon the stage. The malt-tax, which had occasioned during the late reign a motion in Parliament for a dissolution of the Union, was extended over Scotland during the present. The consentient voice of every party and every person in this country, now concurred in reprobation and resistance of this hated measure. It was at Glasgow, a city noted for its loyalty, that an insurrection on the 24th of June 1725, sacked the house of her representative in Parliament, and expulsed the king's troops. Every town and every village were ready to imitate this example; and the king's servants at length saw, with reluctant eyes, that the united passions of a whole people must be respected (*t*). They abolished the office of secretary of state for Scotland. They sent to that country, as a confidential agent, the Earl of Islay, a nobleman of uncommon address and talents, yet of little scrupulosity in his means. General Wade, with Duncan Forbes, the King's Advocate, marched at the head of an army into Glasgow, where there was none to oppose them. The principal insurgents were arrested; the magistrates of that city were carried

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(*s*) I have a MS. account of the proceedings of those courts, in September, 1718, which shows that all the authority and artifices of the judges and lawyers could not overcome the firmness of the grand-jurors in negativing the bills of indictment. Lawyers were sent from London to assist on an occasion so new in Scotland as such trials for high treason.

(*t*) The Duke of Newcastle wrote to Lord Townshend, the Secretary of State, attending the King at Hanover, on the 1st July, 1725: "It is most evident that neither the malt-tax nor the disarming "the Highlanders could have occasioned any disturbance, and those two points being happily got "over, Scotland will be as much in his Majesty's power almost as the least corporation of England." This long letter giving an account of the disturbances in Scotland for the King's information, remains in the Paper-Office. It attributes those disturbances to the division and misconduct of the King's servants in Scotland, "who did not use their united endeavours to make the people easy under those "measures," the *malt-tax*, and the *disarming* act; so difficult is it for statesmen to find any defect in themselves.

prisoners to Edinburgh, where they were not long detained (*u*). By great efforts of management and perseverance, the malt-tax was enforced with some mitigations; but a proper respect was henceforth paid to the spirit of the people (*i*).

Here, then, is the epoch of the improvement of Scotland, arising from the emergency of popular effervescence. While the law was enforced, it was deemed of full as much importance to turn the ardour of the country on itself; to give a spirited people useful employments; to enrich them by the salutary means which are gradually supplied by agriculture and manufacture, fishing and traffic; and in June 1726, the King invited the convention of royal burghs "to prepare schemes for their future welfare (*x*). Royal trustees were appointed in 1727, for carrying all *those schemes* into practical effect (*l*). A *Royal Bank* was at the same time established at Edinburgh, with a jealous, though unmerited retrospect to the Bank of Scotland; but the competition

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(*u*) The insurgents were tried before the Court of Justiciary, wherein the Earl of Islay as Lord Justice General presided. Sir Walter Pringle, Lord Newhall, who is praised by the late Lord Dreghorn in his *Criminal Trials*, as a gentleman of worth, and a lawyer of eminence, led the court against the Justice General in support of a mild construction of law and of a mitigated infliction of punishment: some of the guilty persons were whipped in Glasgow, and some of them were transported to the plantations. The Earl of Islay gave a very heated account of the conduct of the Judges to the Duke of Newcastle, the Secretary of State, in his letter dated the 30th of September, 1725, which remains in the Paper-Office. "I find four of the Judges inclinable to do "all they can, and much more than there is any shadow of law to warrant, in order to skreen the "criminals from justice; those I mean are Lord Newhall, who is a whig, and the best lawyer "among them, and consequently does the most harm on this occasion, so far as to influence "Lord Polton, and Lord Pencaithland, both whigs, the other is Lord Dun, a tory, of the name of "Areskine. Lord Royston, son to the late Earl Cromartie, agrees with me in every point, and was "to-day very free with the rest of our brethren upon that subject." We have seen above what punishments were inflicted by the Judges, but the Lord Justice General wanted to make the crime of the *rioters* to be *robbery*.

(*i*) The malt-tax act in favour of Scotland, specially directed that after paying £20,000 to the public, the surplus should be applied towards encouraging her manufactures and commerce.

(*x*) In the Paper-Office there remains a very intelligent report of that commercial *convention*, dated the 9th of November, 1726, to the King, stating the funds which had been settled for the useful ends of domestic economy in consequence of the Union, and pointing out the most proper objects of manufacture, and fishery, to which they ought to be applied.

(*l*) At this epoch, the surplus linen over the consumption which was made in North-Britain, was estimated at 2,000,000 yards. The quantity which was made for sale in that country was carried up by the prudent management of those trustees during many years, to 24,000,000 yards, till the progress of the linen was stopped by the competition of the cotton.

and clash of the two Banks, as well obstructed the plans of improvement, as incommoded the motions of life (*y*).

The star of agricultural melioration began to twinkle at the Union (*z*). In 1723, a society of *improvers in the knowledge of agriculture* was formed at Edinburgh, consisting of all who were either high, or opulent, or learned, or ingenious in Scotland. This society continued its meetings and exertions till the rebellion of 1745 shed its baneful influences upon them. But those improvers had sown the seeds, which after a while ripened into a harvest of agricultural intelligence and lively effort; so that many a field of corn grew in 1743, where none had grown in prior times (*a*).

Meantime, the demise of George I., on the 10th of May 1727, transferred his rights, under the Act of Settlement, with his ministers, to George II. The nation had undoubtedly prospered amidst the late negotiations and projects, insurrections and wars. The ten years peace which succeeded that demise, contributed still more to the national prosperity. The great domestic manufacture of North-Britain more than doubled in that prosperous period (*b*).

(*y*) The royal trustees stated to the king, in 1728, that the little progress they had been able to make was "owing principaly to the scarcity of money, and lowness of credit, occasioned by the disputes between the two Banks." MS. in the Paper Office. Duncan Forbes, the King's advocate, a magistrate, who is never to be mentioned but with praise, wrote from Edinburgh, on the 26th of June, 1728, to the Duke of Newcastle: "The Trustees, appointed by his Majesty, for taking care of "the manufactures, proceed with great zeal and industry; but at present credit is run so low, by a struggle between the bank lately erected by his Majesty, and the old bank, that money can scarcely be found to go to market with." Letter in the Paper Office. The old bank, however, on the 14th of July, 1731, again settled branches at Glasgow, Aberdeen, Dundee, and Berwick; yet were they all recalled on the 10th of July, 1733. Records of the Bank. The directors thus endeavoured to extend the usefulness of the bank; but those several towns were not yet sufficiently prepared to receive such commercial aids.

(*z*) Lord Belhaven, who is remembered for his speech against the Union, published "An Advice to the Farmers in East Lothian, to labour and improve their Grounds."

(*a*) The *Transactions* of that society were published by Robert Maxwell in 1743. The surplus of corn which was exported at the Union may be stated at 23,000 quarters; in 1743 at 50,000 quarters. The average price of wheat may be given from the legal rates of Haddington, at the Union, at 12s. 3d. per boll; and of oats, at 7s. 5d. per boll. The prices did not rise beyond these averages during many prosperous years. The convention of the royal burrows stated to the King, in 1726, "That the "value of their coarse wool, commonly called *tarred* wool, had fallen in its *value* almost *two thirds* of "what it was at the Union, owing chiefly to the law prohibiting the export of it." MS. Paper Office. In 1719 a law was enacted, which may have had some effect on agricultural improvements: the whole system of the road laws, which had existed in Scotland before the Union, was confirmed and enforced. 5 Geo., i., 30.

(*b*) The surplus of linen made above the consumption was, in 1728, 2,183,978 yards; in 1738 4,666,011. The surplus quantity of corn exported was in a far greater proportion; but the surplus of

After some years of captious peace, a war began in 1738, with Spain, which drew on hostilities with France in 1744; and in addition to the calamities of both, Scotland was soon involved in the miseries of insurrection. Much had been done for preserving quiet; yet, more remained to be carried into effect, during the existing circumstances, for giving vigour to law, and teaching obedience to the governed. The whole country was distracted by domestic faction. The districts lying northward of the Forth were actuated by discontents, which were peculiar to themselves. Of all those dissatisfactions, the King's ministers were amply informed; yet, were unable, or unwilling, during unpropitious times to apply adequate remedies to those various disorders. In this state of affairs, the nation was threatened with an invasion from France. In August 1745, the standard of revolt was raised within the recesses of the Highlands, under the auspices of a grandson of James VII., who now claimed what his grandfather was declared to have forfeited. The successes of the revolted during eight months, evinced the weakness and impolicy of the King's servants (*c*). At length, on the 16th of April 1746, that rebellious standard was torn down for ever at the battle of Culloden. After the close of that decisive day, the King's troops continued to do military execution, till they received an intimation from the Court of Session, that they were acting against law. Sacrifices were now offered to justice; and the penalties of forfeiture were fully inflicted. But the more difficult task remained of removing the causes of a revolt, which had proved a diversion to the enemy, and had shaken the throne.

Memorials were now given to the King's servants; pointing to the causes of that mighty mischief; and indicating effectual remedies for those great disorders (*d*). After much hesitation, was passed, on the 25th of March 1747,

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the corn depends so much on the seasons, that it is not so good a criterion of prosperity or decline. The laws which had been recently made for allowing the export of native commodities, free from duties, and for allowing the importation of the materials of manufactures equally free, must, no doubt, have had a considerable effect.

(*c*) There are various documents in the Paper Office which show very clearly that the King's ministers were warned, as early as the year 1740, of the discontents of many considerable persons, both in South and North-Britain, and of their purpose to revolt.

(*d*) Those memorials still remain in the Paper Office. It was said that the great argument which induced the Scots to come into the Union, not only to enjoy the invaluable privileges of the English constitution, but likewise to hold those privileges by the same title; if there be any thing wanting to complete that design, one of the contracting parties is deceived, and consequently must be discontented, but that truly no real Union can exist till what is essential to such an Union be performed; that under the notion of a complete Union, wherever any of the people of Scotland fell short the act "for taking away those heritable jurisdictions" which had been so unfitly obtained and so long complained of (*e*). Other laws were passed for giving full effect to that salutary measure (*f*). It was objected, indeed, that those jurisdictions had been saved by *the Union* to the proprietors; but it was observed that the power of Parliament had been also reserved to alter the Union for the obvious melioration of the whole people, and another principle of the constitution was brought in to aid that reservation, by declaring that the fair value of those private rights should be settled by the Court of Session and paid for by the public (*g*). The great object appears to have been "to "make effectual provision for the regular administration of justice throughout "North-Britain by the King's judges (*h*)." Such were the measures arising from the rebellion of 1745, which gave completeness to the Union of 1706. We have seen in the foregoing pages what indeed all history attests, that morals seldom exist among civil conflicts and religious frenzy. If it be inquired when Scotland became a moral country, the answer must be that when law was settled as the universal rule, and justice was equally administered, the people acquired morals and the state became safe.

A nine years' war was ended by the peace of 1748. North-Britain furnished her fair proportion of men and of money, towards those hostilities; she had been disturbed by nine months insurrection, yet it does not appear that her industry had been much interrupted, or the progress of her posterity long

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in their enjoyment of those privileges with the people of England, it may prove of the most dangerous consequence to the whole constitution. In order to make out those points, this intelligent memorialist went into a minute detail of those *holdings, superiorities,* and *jurisdictions,* which, as they were hereditary in particular families, necessarily tended to enslave the people and to endanger the state as successive insurrections had evinced.

(*e*) 20 Geo. II. 43; 21 Geo. II. 19. Those jurisdictions had certainly been reserved by the act of Union, and this had been made an objection to every proposal for removing those evils; but it was answered that where the state is endangered by the enjoyment of private rights, these rights must give place to the general good on making adequate satisfaction to the interested individuals.

(*f*) The forfeited estates were annexed to the crown, and commissioners were appointed for applying their produce to the improvement of the Highlands, the inhabitants of which were again disarmed.

(*g*) There were claims given in amounting to £602,127 16s. 8d. The real pretensions were liquidated by the Court of Session at £152,237 15*s.* 4*d.* sterling money.

(*h*) For that important end those jurisdictions were paid for and removed, and sheriffs, consisting of professed lawyers, were appointed by the King with adequate salaries, as the Court of Session had recommended to the House of Peers.

detained (*i*). The times which succeeded that epoch, formed a period of great prosperity in all that can make a people opulent and a nation great (*k*). A society was formed at Edinburgh in April, 1754, for the encouragement of Arts and Sciences, Manufactures and Agriculture. This body of eminent and ingenious men, by inciting the spirit and promoting the efforts of an active people, gave a new energy to their pursuits, and a more adventurous turn to their enterprizes. In the same year the forfeited estates in Scotland were applied to the improvement of the Highlands. In the mean time disputes with regard to American boundaries produced a new war in 1754 between Great-Britain and France. This war, which was marked by alternate misfortunes and successes, was ended by the peace of 1763, when the French were expelled from North-America and the Spaniards renounced the Floridas. The same swords which had been felt during the late insurrections were turned by dexterous management upon the enemy (*l*). During this long and glorious war, the people neither of England nor of Scotland were much interrupted in their usual pursuits. We might infer this from their consumption which was not lessened. We may infer that instructive fact from the augmented products which they sent out to countries which are less happy.

(*i*) It is an instructive fact that the United Kingdom enjoyed more industry, more manufactures, more trade, and more shipping in 1748 than in 1738. The surplus linen which was made in Scotland during the year 1738 was 4,666,011 yards; in 1748 it was 7,358,098 yards. This is the true barometer of her internal prosperity. The surplus quantity of corn which was exported from Scotland in 1738 was 45,628 quarters; in 1748 it was 49,684. In April, 1749, the first stage coach began to run between Edinburgh and Glasgow twice a-week, but this project was soon relinquished for want of employment. This fact marks the badness of the communications and the deficiency of intercourse.

(*k*) It was in the period abovementioned that the system of *banking* in Scotland began to energize the people, after they had been prepared by previous measures to derive facilities from their operations. The capital of the Royal Bank had been augmented to £150,000 in 1738. The British Linen Company had been established at Edinburgh in 1746, with a nominal stock of £100,000, and immediately began to issue notes. In 1748 a bank was established in Aberdeen by four merchants, whose discounts were prosecuted for usury. This prosecution did not deter the intelligent traders of Glasgow from establishing in that city two Banks in 1750, whose notes were circulated to a considerable extent. Whatever abuses may have been committed by any of those establishments, they have promoted the industry and augmented the wealth of North Britain in a greater degree than theorists are disposed to acknowledge. The compensation of £152,000, which was granted for the heritable jurisdictions, may be considered as so much active capital that was added to the efforts of Scotland.

(*l*) In 1757 Lord Barrington, the Secretary of War, thanked the people of Scotland for their activity in raising the new levies. The clans had not yet been compelled to seek for comforts in other countries. There were still in that country many persons who preferred the levities of war to the drudgeries of industry.

in their situations, and less industrious in their employments (*m*). It is one of the peculiarities of our happy island, that a nation of freemen never fail to carry the energies, which they acquire in war, into the occupations of peace.

The demise of George II., on the 25th of October 1760, transferred all his rights to the present King. When time shall have mellowed the transactions of his reign, the history of this period, which, as it is commonly written, consists only of domestic disputes or of distant warfare, will naturally become of much less interest. Other objects will excite more curiosity and offer more instruction. The amendment of the law and the improvement of the constitution ; the investigation of manners and the encouragements of literature ; the protection of arts and of science, by an enlightened and beneficent sovereign ; the promoting and performance of voyages of discovery ; the encouragement of agriculture and manufacture, the incitement of traffic and navigation ; such are the topics which future historians will delight to narrate and explain with just commendations. Of all those unwonted excitements to emulation, North-Britain enjoyed her full share. Various new professorships were settled in her universities, for the instruction of youth in the useful and the elegant parts of scholarship. The office of *historiographer royal* was revived for the more diligent cultivation of the unweeded garden of her history, though without much success. A Royal Society for the Cultivation of Natural Knowledge and true Science, was established at Edinburgh. At this seat of learning and of law, an *Antiquary Society* was settled with chartered privileges, in order to cultivate the *Archæology* of a nation, which cannot boast of its antiquaries. The forfeitures of late times were relinquished ; proscriptions of principles and of *dress* were repealed ; intolerance of every kind was discountenanced ; those descriptions of Christians, who had been driven into disaffection by harshness, were reclaimed by lenity ; and at length, every

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(*m*) To carry out those products before the war began, required of shipping,	661,184 tons.
After the restoration of peace,	708,008
The value of their *cargoes* in the first period was,	£12,599,112
in the second period,	14,925,950
In 1754 the revenue of the Post Office was,	£210,663
In 1764 the same revenue amounted to,	281,535
The value of cargoes exported from North-Britain in 1754 was,	£ 670,000
in 1764,	1,244,000
In 1754 the surplus quantity of linen which was made for sale in N. Britain was,	8,914,369 yards.
In 1764 the surplus quantity was,	12,823,048

meeting of Christians were heard to pray, with sincere animation, for the safety of a Sovereign, who had shown himself by so many acts of beneficence, to be the true father of his people.

Meantime, the peace of 1763 left the State embarrassed by the debts of the war, which were soon liquidated and settled, by the prudent application of the national energies. During the dozen years which followed that event, the greatest efforts were made to improve the surface of our island (*n*). The manufactures were promoted by many laws of equal efficacy. The fisheries of our shores were also encouraged by regulations and bounties. Commercial circulation, which is of such mighty consequence in industrious countries, was with the practices of bankers, promoted and regulated. Great attention was paid to the affairs of the mint, while a new practice was introduced into the theory and circulation of the coins. Those active measures were attended with the most salutary effects, as to the industry and commerce of this enterprizing nation (*o*). North-Britain partook, as we may easily suppose, in all those encouragements and in that prosperity (*p*).

In 1775 while the nation thus prospered, her transatlantic provinces placed themselves in that state of revolt at which they had aimed from the epoch of *the Revolution*, as the State Papers attest. Why a nation that had lately overpowered France and Spain, did not quash that revolt, not in one campaign but in several years, it is the business of some future historian to explain. If a nation will negotiate when she should fight, and fight when she should negotiate, in vain does she expect success. The revolted Colonies were joined

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(*n*) In the first fourteen sessions of the present reign no fewer than seven hundred Acts of Parliament were passed, for dividing commons, enclosing waters, and draining marshes. In that period were passed four hundred and fifty Acts of Parliament, for the making of roads in different districts. In that period also were nineteen laws enacted, for making artificial canals, exclusive of the many harbours which were improved and secured. Such were the arts by which a great nation was enabled to bear burdens, and to accumulate wealth!

(*o*) In 1764 the whole shipping which were employed in foreign trade amounted to,	708,008 tons.
In 1774,	860,175
In 1764 the cargoes exported in that vast quantity of tonnage amounted to,	£14,925,950
In 1774 to,	15,613,003

(*p*) In 1764 the cargoes from Scotland were of the value of,	£1,243,927
In 1774,	1,372,143

The statute book attests how many laws were passed during that period for the domestic improvement of North-Britain.

by France in 1778, by Spain in 1779, and by Holland in 1781. Those Colonies were acknowledged to be independent in 1782; and peace was made with those powers, successively, in 1783 and in 1784. During those embarrassing hostilities, the foreign trade of this nation was greatly depressed; and her finances were wasted, though her resources remained unexhausted. It required great efforts of skill, perseverance, and magnanimity, to restore the nation to that state of prosperity which she enjoyed before that distracting war began. But her affairs, financial and commercial, were soon restored. Her debts were settled; her exchequer was replenished; and a sinking fund of a yearly million was established on such principles as to lighten the burden of the public debts, to strengthen the national credit, and to energize the various pursuits of a diligent people (*q*). Meanwhile, the East-India affairs were regulated; the national fisheries were encouraged; the native shipping were protected by a new navigation act; foreign treaties were renewed; manufactories were promoted; agriculture was encouraged; a thousand laws were made for local improvements (*r*): and the necessary result was a state of prosperity in 1792, which far exceeded what this powerful nation had ever enjoyed in the most prosperous times (*s*). In this prosperity, and in those encouragements, North-Britain fully partook and equally obtained the benefits (*t*).

Yet, amidst all that felicity, ensued, in 1793, bankruptcies at home and hostilities abroad. The evils arising from the first of those misfortunes were

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(*q*) The national revenue was below the expense of the public establishments, in 1783, two millions of pounds; in 1792 the revenue exceeded those establishments two millions.

(*r*) The statute book is the best voucher for all those measures.

(*s*) The shipping which were employed in the foreign trade of Great-Britain

amounted, in 1772-3-4, to, - - - - - -	680,175 tons.
in 1785-6-7, to - - - - - -	1,130,370
in 1790-91-92, to - - - - - -	1,493,757

In the first period the value of their cargoes amounted to, - - -	£15,613,003
In the second to, - - - - - - - -	17,123.373
In the third to, - - - - - - - -	22,585,771

(*t*) In 1772 the surplus value of her linen manufacture amounted to, -	13,089,006 yards
In 1782 to, - - - - - - - - -	15,348,744
In 1792 to, - - - - - - - - -	21,065,386

In 1763 there were employed ships in the foreign trade of North-Britain, -	33,352 tons.
In 1782, - - - - - - - - -	50,530
In 1792, - - - - - - - - -	94,027

soon redressed, and credit was immediately restored. The war with France first, with Spain afterwards, and with the powers of the North in the end, continued for years, rather to waste our wealth than to interrupt our domestic industry, or to embarrass our foreign trade. We now enjoyed from our naval victories, as much as from our skill and wealth, almost the whole commerce of the world (*u*). Peace was restored to a harassed, rather than exhausted nation, in October 1801. Throughout this war, our domestic improvements went on without interruption. In the eight years which elapsed with 1800, there were upwards of a thousand laws passed for local meliorations (*x*). A great debt had, however, been contracted by the state, which was lightened by a new policy, that consisted in appropriating a revenue to redeem every loan. In all those measures, both of war and of peace, whether happy or adverse, North-Britain felt the distress and enjoyed the benefits (*y*).

At this epoch, when a new century began and another Union was formed, it may be proper to *review* the period of *the Union* with a retrospective glance to the past, in order to recal some of the most important topics for marking a progress, and ascertaining the result. (1.) The most important topic is the great body of the people. It is a known circumstance in the history of mankind, that they have a tendency to increase and multiply even under the most adverse circumstances. The numbers of the people of North-Britain at the epoch of the Scottish Union, was unknown to the statesmen, who conducted that difficult measure to a happy end. By carrying back the mind from the enumeration of 1801, to the returns that were made in 1791 and in 1755,

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(*u*) The value of the whole cargoes exported in 1792 was, - - - £22,585,771
in 1802, - - - 46,120,962

The number of ships belonging to the British dominions—

in 1792 was 16,079, bearing,	1,540,145	tons.
in 1802 - 20,568 ———	2,128,055	

(*x*) The Statute Book attests this instructive fact.

(*y*) The whole shipping which belonged to Scotland carried, in 1792, - 84,027 tons.
in 1802, - 94,276

The whole cargoes exported from Scotland in 1792 amounted to, - - £1,230,884
in 1802 ———— to, - - 2,602,858

the whole people in 1706 may be fairly estimated at 1,093,000 (*z*). They multiplied in proportion as they advanced, and as they enjoyed additional security and greater comforts. They became a moral people, as we have seen, when *the law* was established in 1747 as the rule of their conduct and the measure of their safety. In their progress they perhaps acquired morals as they gained habits of industry, and while they obtained wealth by their labours, they became virtuous from their applications. (2.) The admission of the people of Scotland by their representatives into the Parliament of Great Britain, which is so much better constituted in its theory and so much more useful in its practice, was a most advantageous acquisition. The abolition of their Privy Council on the 1st of May, 1708, was almost of equal importance to them. The criminal jurisdiction of that corrupt body seems from that measure to have devolved on the King's Advocate. Their civil affairs was transacted by a Secretary of State for Scotland (*a*). They were subsequently

(*x*)

The enumeration of 1801, - - - - - -	1,610,000 souls.
The returns of - 1791, - - - - - -	1,526,000
The returns of - 1755, - - - - - -	1,265,000

The numbers of people who lived in the principal towns of Scotland at those epochs may be stated in the following manner:

	In 1706.	—	In 1755.	—	In 1801.
Edinburgh contained of souls, -	30,192;	—	47,790;	—	68,826.
Leith, - - - -	5,500;	—	9,405;	—	15,272.
Glasgow, - - -	14,940;	—	27,451;	—	76,820.
Dundee, - - - -	9,920;	—	12,477;	—	26,084.
Perth, - - - -	7,040;	—	9,100;	—	15,500.
Paisley, - - - -	2,530;	—	4,820;	—	25,030.

(*a*) This office was abolished, as we have seen, after the insurrection of Glasgow. The Earl of Islay was now employed as a political agent under the two secretaries of George I. After his return to court, in 1725, Duncan Forbes, the King's advocate, corresponded with the King's servants during several years. His correspondence is full of knowledge, candour, and moderation. The Earl of Islay, who died in 1761, long ruled by a delegated but sovereign sway. The Post Office at Edinburgh was for some time infested by the two Dukes of Argyle. The Earl of Islay wrote to Sir Robert Walpole in 1738: "I am forced to send this letter by a servant twenty miles out of town, where the Duke of "Argyle's attorney cannot handle it; and I enclose it to William Stewart." John, Duke of Argyle, died on the 3rd of April, 1743. On the 15th of March, 1747-8, General Bland, the commander of the troops, wrote to the Secretary of State: "That his letters were opened at the Edinburgh Post Office; and I think this is done by order of a noble Duke, in order to know my secret sentiments of the people, and of his grace: if this practice is not stopped, the Ministers cannot hope for any real information." We have long lived in happier times: no person dare now open letters at the Post Office, which is sacred.

ruled by secret agency under the King's ministers rather than by any avowed minister. Their administration was gradually improved as well by positive law as by the spirit of the Parliament and the temper of the nation. (3.) The public revenue of North-Britain may be considered under different aspects at distant periods in proportion to the abilities of the people. In 1656, as we have seen, the whole revenue which could be derived from an exhausted country was £39,044. It may have been double this petty contribution of a dispirited people in the three subsequent reigns. At the Union in 1706, the whole revenue was estimated at £160,000. At the Union with Ireland in 1800, the yearly revenue which was actually paid by Scotland into the Exchequer was at least 1,790,000 sterling pounds (*b*). If we were to consider the sums which were appropriated by the act of Union, and actually applied as a mercantile project towards encouraging the industry of the people, we might thus see how much profit was derived from that prudent application of very inconsiderable sums. (4.) The enriching industry of the North-British people may be viewed under several aspects. The agriculture of Scotland was early encouraged, as we have seen, though certainly without much success. It has advanced greatly during the present period, and it may perhaps be asserted that the surface of Scotland has been more meliorated during the last fifty years by every sort of manurance than England, which has been greatly improved (*c*). The agriculture and manufactures of North-Britain were not probably, after so many conflicts and revolutions, in a better state at the epoch of the Union than they had been at the demise of Alexander III. They had been sometimes encouraged, as we have seen, but they seem to have never advanced beyond the domestic supply. During *the period* of *the Union* the industry and manufactures of Scotland have been assiduously cultivated,

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(*b*) The income of the Posts, which illustrates so many points of domestic economy, - - -	in 1706 was, - - -	£ 1,194
The same income, - - -	in 1801 — - - -	89,817
The amount of the Excise, - -	in 1706 was, - - -	£ 33,500
	in 1801 — - - -	833,000
The Custom-house duties, - -	in 1706 were, - - -	£ 34,000
	in 1801 — - - -	578,000

(*c*) The whole export of corn from Scotland at the Union was only, - - 22,937 quarters
The greatest export was in 1749, - - - - - - - 105,573

From that epoch, owing to bad seasons and an augmented consumption, the import of corn has been generally equal to the export.

and those endeavours have, in the tedious result, proved successful beyond the expectations of hope (*d*). In addition to the linen manufacture the Scottish tradesmen work up almost all the wool which the Scottish sheep produce. They have moreover acquired the manufactures of silk and of cotton to a vast amount, besides various other ingenious fabrics to a great extent (*e*). The whole value of the several cargoes which were exported from Scotland in 1755 was only £663,401. The same cargoes which were exported thence in 1805 were valued at the Custom House to the amount of £2,507,128. The fisheries in Scotland have always been promoted in proportion to their importance, though not always with equal success (*f*). There had undoubtedly been some increase both in the fishery and shipping of North-Britain during the reign of Charles II. There was an additional augmentation of ships before the epoch of the Union; and there has been an increase in the intervenient period, proportionate to the progress of their improvements and the increment of their traffic (*g*); and the opulence of the people accumulated according to the activity of their advancement and their habits of economy. If the public revenue may be considered as an adequate measure of private wealth, in a nation where the practice of finance has been brought to perfection, then must the private wealth of North-Britain have increased during the period of the Union in the proportion of £160,000 to £1,790,000 (*h*). (5.) A very slight inquiry would shew that Scotland has produced during that age a vast mass of genius, erudition, and literary

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(*d*) At the Union, the surplus manufacture of linen in North Britain could

not have been more than - - - - -	1,500,000 yards.
In 1801 the surplus amounted to - - - - -	25,271,155

Which were valued at £1,018,642 sterling.

(*e*) It was estimated in 1792 that there were occupied in the four shires of Lanark, Renfrew, Ayr, and Dumbarton, by those various employments, 90,000 men, women, and children, who earned daily £6,850, or £2,137,200 sterling, a-year. There were imported into Scotland of cotton wool during

the year 1755 - - - - - - - -	105,831 lbs.
in 1789 - - - - - - - -	2,401,661
in 1803 - - - - - - - -	8,620,996

(*f*) In 1760 there were employed in the Scottish fishery	113 vessels, carrying	3,842 tons.
In 1800 - - - - -	558 - -	23,688

(*g*) In 1706 there belonged to Scotland, of ships	215, carrying - -	14,485 tons.
In 1805 - - - -	2,581 - - -	210.295 tons.

(*h*) In 1800 *the income tax* of North-Britain was spread over 20,537 persons of various faculties, whose incomes were assessed at £4,512,570, on which was paid £344,015.

effort. A full proof of this intimation might be found were we to run over only the learned professions of *Law*, *Physic*, and *Divinity*. The reign of Charles II. was the period of great lawyers in Scotland, as the reign of James I. had been the age of learned lawyers in England (*i*). The subsequent reigns produced uncommon jurists; the President, Duncan Forbes, whether we regard him as a lawyer or as a man, was beyond all praise; and North-Britain, in the same period, sent lawyers to the English bar who would have dignified the forums of Rome and of Greece during the best days of their oratory and jurisprudence. The schools for teaching *the healing art* may be said to have been opened in 1681 when the College of Physicians was established (*k*). In the subsequent age, Pitcairn seems to have carried away the palm of erudition and discovery in his own art. At an after period the schools of physic appear to have been again refounded by those eminent physicians, Alston, Monro, Rutherford, Sinclair, and Plummer. By individual exertion and royal munificence, the University of Edinburgh became generally known, in subsequent times, for still greater masters in the healing art. As the reign of Charles II. was remarkable for illustrious lawyers, the reign of Charles I. was distinguished for learned divines. The family of Forbes produced several theologians of profound erudition; and the University of Aberdeen could then boast of several doctors, with Baron at their head, who were celebrated by Clarendon for their fortitude, and praised by Burnet for their temper as well as their learning. Those extraordinary scholars have not yet been surpassed in their knowledge of theology. Yet more recent times have produced in this faculty among other learned theologues, Leechman and Macknight, Gerard and Campbell. If we were to diverge from those learned professions to elegant literature and to higher sciences; were we to follow Bacon throughout "the parts of human learning which have a reference to

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(*i*) That position may be made out by the following enumerations: The President, Sir John Gilmour; Sir John Nisbet, a person of great learning, both in the law and in language, chiefly the Greek, was a person of great integrity, says Burnet; the President, Sir George Lockhart, was the most learned lawyer and the best pleader in any nation, according to Burnet. To these may be added Sir George Mackenzie and the Lord President Stair. The late Lord Hailes has preserved a tradition from the mouth of the Lord President Dalrymple, who said, "I knew the great lawyers of the last age, "Mackenzie, Lockhart, and my own father, Stair. Dundas excels them all!" This celebrated person was admitted Lord President on the 16th of September, 1748, in opposition to Charles Erskine, Lord Tinwald, who, as Solicitor General, conducted the trials of the Glasgow rioters, and was praised for his eloquence by the Earl of Islay.

(*k*) The first physician in the charter of that establishment was Sir Robert Sibbald, and the last was Doctor Pitcairn.

" the three parts of man's understanding, history to his memory, poesy to his " imagination, and philosophy to his reason;" our inquiries would find distinguished men in every department of letters. Keith has shown an admirable example how history may be cultivated, when it is to ascertain facts and to inculcate truths, with regard to the events of turbulent times. Many writers of memoirs have arisen during this period of the Union. Robertson and Hume are supposed to have approached almost to the perfection of historic composition; and they had both attained it, if the one had had more knowledge of the affairs of Scotland, and the other had had more research into the annals of Britain. They have been followed in their faculty by several writers, who emulated their celebrity without success, and envied their gains without acquirement. North-Britain has not yet produced an antiquary, that necessary helpmate to the historian, as few delight to labour a field where there is much toil and little profit. Neither has North-Britain yet succeeded in *biography*, that more agreeable department of historic writing; as research was requisite and the reward was doubtful. The Scottish poets contested the prize of poesy with the English, till the rise of Spenser and Shakspeare. During the Union period, the lyric poets of Scotland have carried away the palm from the greatest of the English lyrists (*l*). Thomson has been assigned "praise " of the highest kind, his mode of thinking and of expressing his thoughts, " being original." In dramatic poetry, the Scottish writers are acknowledged to have failed; but they only failed as compared with the great dramatists of England, who, by a rare felicity, have surpassed the writers of every other nation in the arduous accomplishment of *representative* poesy. They succeeded better in what Lord Bacon calls *Parabolical* poetry, as we know from the *Fables* of Ramsay and of Wilkie. Scotland has been long distinguished for its pathetic music. On the theory of this agreeable art, Malcolm has written with uncommon learning; and the Earl of Kellie carried up musical practice, by scientific efforts to extraordinary excellence. The cultivation of the art of *criticism* had a late beginning in Scotland. During the last fifty years, it has been extended to a great height by the successive labours of Lord Kames, George Campbell, Beattie, and Blair. Yet few have distinguished themselves during that period in classical learning, though every one

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(*l*) There is not in any language, perhaps, any composition to equal the *Tweedside* of Crawford. Mallet's *William and Margaret* has never been surpassed; and *the Tears of Scotland*, by Smollet, "for pathetic sentiment and elegant versification, according to Ritson, has not been excelled by any "thing that ever was written." Nor will Ramsay be ever forgotten while the lyrists of Scotland shall be regarded as poets, who have contributed to the honours of their country.

acknowledges its importance. Ruddiman, indeed, and Doig were scholars, and Lord Monboddo had learning, if he had known how to use it. In this country much has been written on *Metaphysics* during late times. Reid seems to have gained the first place in this department of letters, from his acuteness and perseverance, as much as from the rectitude of his purpose. Hume maintained his first honours as a *Sceptical* philosopher, till he was encountered by Beattie, who showed the futility of such speculations, if not the folly of building hazardous system on airy nothing. Yet, the Scottish writers continue to labour in this school with worthless emulation, as if fame could be enjoyed in obscurity, or honours could be obtained from nothingness. In speculations of a different sort, the cultivation of what BACON calls *civil wisdom*, other writers have obtained merited applause. Sir James Stuart and Doctor Adam Smith have distinguished themselves above all others in teaching the lessons of *political* economy, though their doctrines had been more satisfactory, had they delighted more in the ascertainment of facts than in the investigation of theories. The reign of Charles II. saw very different studies begin within North-Britain. In that age, Sir Robert Sibbald acquired the distinguished honour of being the chief cultivator of *natural knowledge* (*m*). Sutherland, Martin, and Wallace, followed his example. But, it was Alston and Hope, who, in subsequent times, cultivated the curious field of botany on scientific principles. Elizabeth Blackwell and William Aiton, distinguished themselves as herbalists. The year 1685 may be deemed the epoch of the introduction of the Newtonian philosophy, into the public schools of the learned metropolis of North-Britain. In the meantime arose the Gregorys, a most ingenious family, who will ever be dear to scientific men. They were followed by the two Keils, who left writings which attest how well they had cultivated the field of science. Those very able men were succeeded in their scientific career by Matthew Stewart and Colin MacLauren, who with superior talents followed science to its utmost bounds. Neither were there wanting men, who cultivated in those times what BACON entitles *Practical Philosophy*; and in this period, which was so fruitful of genius, North-Britain produced several men who have distinguished themselves in the arts of painting and modelling, of en-

(*m*) On the 12th of December, 1686, Sir Robert Sibbald had a pension of £100 settled on him, as the King's ordinary physician. King William was too much occupied with war, and his Ministers were too busy with faction, to give any encouragement to science or the arts. Queen Anne soon adopted a more liberal policy. On the 22nd of February, 1702-3, a pension of £50 a year was settled on James Sutherland, the *Botanist*. In the same year a yearly pension of £60 was settled on Matthew Martin, who was sent to the Hebrides in pursuit of natural knowledge.

gineering and architecture. We have now seen from those short sketches how much North-Britain during the period of the Union has increased her people, energized her industry, improved her manufactures and traffic, augmented her wealth, and distinguished herself by the cultivation of the useful and the elegant arts.

The same causes which had induced the Union between Scotland and England, gave rise to the Union between Great-Britain and Ireland. At both these epochs, it became apparent to the wisest statesmen, that a crisis had arisen which must end either in a separation or conjunction. Wisdom decided that the happiness and safety of Great-Britain and Ireland could be only enjoyed by *an Union*. The essential principle of the former Union was adopted in this—the incorporation of the two nations—by uniting their legislatures. Different circumstances, however, introduced on this occasion very different details as to policy and commerce. But the 1st of January 1801 will be always considered in the history of the kingdom as the happy epoch of one of the greatest achievements in her annals. The Britannic islands, as we have seen, were originally settled by the same Celtic people. The conquests of the Romans and the intrusions of the Saxons produced separations and estrangement, a different language and a distinct polity within those several islands. The irruption of the Normans into England gave a new cast to those separations and to that estrangement. Scotland, by great efforts of valour and fortitude, during a long continued contest, maintained her independence. The intrusion of the English into Ireland, under Henry II., introduced a new speech and a novel polity amongst a very different people. Ages of dissatisfaction and struggle were the result; and *the Union* with Ireland has again conjoined the several people and interests of the British isles under one intelligence and one legislation. Let it be the wish and the endeavour of every wise and good man that this Union may be perpetual!

FINIS.

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